

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

ARTICLE 1. EMPLOYMENT AND TRAINING SERVICES; OPPORTUNITIES INDUSTRIALIZATION CENTERS

Rule 1. General Provisions

646 IAC 1-1-1 Definitions

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Definitions-As used in this article [646 IAC 1], unless the context requires another meaning, the following terms shall have meaning as indicated:

- (a) "Like Community Based Organizations" means private non-profit organizations, the boards of which are representative of communities, or significant segments of communities, whose primary purpose is to provide employment and training services to economically disadvantaged people.
- (b) "Unemployed" means an individual who is without a job, and who wants, and is available for work.
- (c) "Underemployed" means an individual:
 - (1) working part time but seeking full time work;
 - (2) working full time but receiving wages below the greater of:
 - (i) the poverty level determined in accordance with criteria established by the U.S. Office of Management and Budget.
 - (ii) seventy percent (70%) of the lower living standard income level as determined by the Bureau of Labor Statistics.
- (d) "Economically Disadvantaged" as defined in the Comprehensive Employment and Training Act (CETA) of 1978 means a person who:
 - (1) receives, or is a member of a family which:
 - (i) receives cash welfare payments under a Federal, State or Local welfare program or,
 - (ii) had a family income during the six (6) month period prior to application for the program involved which would have qualified such family for such cash welfare payments, subject to regulations of the U.S. Secretary of Labor;
 - (2) has, or is a member of a family which has, received a total family income for the six (6) month period prior to application for the program involved (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of:
 - (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or;
 - (ii) seventy percent (70%) of the lower living standard income level; as determined by the Federal Bureau of Labor Statistics;
 - (3) is a foster child on behalf of whom state or local government payments are made; or
 - (4) in cases permitted by regulations of the U.S. Secretary of Labor, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital or similar institution, or in community care.
- (e) "Areas within the state" shall mean Indiana counties within service areas of those organizations both certified as eligible to apply and are applying for funds.
- (f) "Equitable" shall mean distribution among those counties for which acceptable proposals have been received, according to the following formula: 1) one half of available dollars on the basis of the proportion of each county's number of unemployed people, in comparison with the total number of unemployed people in all such counties, and 2) one half on the basis of the number of proportion of low income people, in comparison with the total number of low income people in all such counties. Statistics for such distribution will be the most recent, available statistics from the Indiana Employment Security Division.
- (g) "Adequate administrative systems" shall mean that those systems must at least meet the criteria of administrative controls and accountability as required by the Indiana Office of Occupational Development, for disbursement and accountability of appropriated state funds.
- (h) "Lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural difference and family size) determined annually by the Labor Secretary based upon the most recent "lower living family

budget” issued by the U.S. Secretary of Labor.

(Department of Workforce Development; Rule 1, Sec 1; filed Dec 10, 1979, 2:15 pm: 3 IR 38; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-1) to the Department of Workforce Development (646 IAC 1-1-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 1-1-2 Use of appropriations

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Financial assistance is provided for comprehensive job training and related services for economically disadvantaged, unemployed and underemployed individuals. Comprehensive job training and related services include: recruitment, counseling, remedial education, motivational pre-job training, vocational training, job development, job placement, and other appropriate services enabling individuals to secure and retain employment at their maximum capacity.

(a) Any appropriation made by the General Assembly shall be used:

(1) for comprehensive job training and related services or job opportunities programs for economically disadvantaged, unemployed and underemployed individuals, including persons of limited English speaking ability through Opportunities Industrialization Centers and other like community based organizations.

(2) for the establishment, start up, and operation in the state of these centers.

(Department of Workforce Development; Rule 1, Sec 2; filed Dec 10, 1979, 2:15 pm: 3 IR 39; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-2) to the Department of Workforce Development (646 IAC 1-1-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 1-1-3 Administration and approval of grants and programs; certification of agencies

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) The Office of Occupational Development established under IC-4-23-14 [*IC 4-23-14 was repealed by P.L.18-1987, SECTION 112, effective July 1, 1987.*], shall administer this Article [646 IAC 1]. Each grant or program shall require the approval of the Governor and the State Budget Agency. If an agency is not an Opportunity Industrialization Center, it must first obtain an eligibility certification from the Indiana Office of Occupational Development. Detailed requirements for eligibility certification will be included in the Request for Proposals (RFP's).

(b) In considering agencies for certification, the agency must demonstrate adequate administrative systems and procedures in regard to—

(1) program monitoring systems;

(2) eligibility verification systems;

(3) complaint and hearing procedures;

(4) mechanisms for taking immediate corrective action where problems have been identified;

(5) all recipients shall establish and maintain financial management and participant tracking systems;

(6) demonstrated effectiveness in program performance.

(Department of Workforce Development; Rule 1, Sec 3; filed Dec 10, 1979, 2:15 pm: 3 IR 39; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-3) to the Department of Workforce Development (646 IAC 1-1-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 1-1-4 Criteria for distribution of funds

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. The criteria for the distribution of funds under this chapter [*this section*] shall include requirements:

(a) that the program receiving state assistance:

(1) involve residents in the area to be served by the program, in planning and operation of the program;

(2) involve the business community in the area to be served by the program in its development and operation;

(3) that funded organizations be able to demonstrate that (1) and (2) of this section have been met.

(b) that the distribution of assistance among areas within the state be equitable. If no proposals are forthcoming from any area, the Indiana Office of Occupational Development may use the funds to increase funding in another area. Under unusual circumstances, it may occur that more than one proposal is acceptable for a program to receive funding in a given county. Should this occur, the Indiana Office of Occupational Development will divide that county's allocation, taking into consideration the following:

(1) the targeting of services of competing organizations to segments of eligible participants

(2) the relative numbers of participants served by each organization

(3) the relative need among targeted populations

(c) that notice of application for funding should be provided to the appropriate CETA prime sponsor(s) approximately 30 days prior to submission of a proposal in order that the prime sponsor may comment on such application. When the proposal is submitted to the Indiana Office of Occupational Development, it must also be submitted to the appropriate prime sponsor(s) in order that the prime sponsor may comment.

(d) that financial assistance under this chapter to any program may not exceed twenty-five percent (25%) of the cost of the organization's funding level, (including administration), with the exception of (e) of this section.

(e) for those organizations established within the preceding twelve (12) months from application for funds and displaying the likelihood of having adequate administrative systems consistent with the CETA Act of 1978, within their first year, the match may be up to fifty percent (50%) of the organization's funding level.

(f) that up to ten percent (10%) of the total allocation may be used by the Indiana Office of Occupational Development for costs related to administration of this program.

(g) that up to ten percent (10%) of the total allocation may be used to fund administrative costs of an organization with statewide scope whose membership consists of Opportunities Industrialization Centers or like community based organizations.

(Department of Workforce Development; Rule 1, Sec 4; filed Dec 10, 1979, 2:15 pm: 3 IR 40; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-4) to the Department of Workforce Development (646 IAC 1-1-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 1-1-5 Distribution of excess funds

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. The Office of Occupational Development, with the approval of the Governor, may make a distribution in excess of the limit prescribed in section 4(d) of this rule if it determines that the excess distribution is necessary to further the objectives of this article [646 IAC 1]. *(Department of Workforce Development; Rule 1, Sec 5; filed Dec 19, 1979, 2:15 pm: 3 IR 40; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-5) to the Department of Workforce Development (646 IAC 1-1-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 1-1-6 Direct distributions; conditional distributions

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. The Office of Occupational Development may make a distribution of funds directly to a program, or may make a distribution subject to such conditions as will ensure use consistent with the distribution and utilization of funds under the Federal Comprehensive Employment and Training Act of 1973 as amended and in effect July 1, 1979. *(Department of Workforce Development; Rule 1, Sec 6; filed Dec 10, 1979, 2:15 pm: 3 IR 40; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-6) to the Department of Workforce Development (646 IAC 1-1-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 1-1-7 Performance contracts

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 7. All monies distributed by the Indiana Office of Occupational Development through this program shall be distributed through performance contracts. Failure to meet performance standards including programmatic, reporting, and administrative, may result in contract cancellation by the Indiana Office of Occupational Development. (*Department of Workforce Development; Rule 1, Sec 7; filed Dec 10, 1979, 2:15 pm: 3 IR 41; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 1-1-7) to the Department of Workforce Development (646 IAC 1-1-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

ARTICLE 2. EMPLOYMENT AND TRAINING SERVICES; POLICIES AND PROCEDURES

Rule 1. Definitions

646 IAC 2-1-1 Uniform definitions; applicability

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 1. (a) The department shall use nationally uniform definition and information elements as prescribed by federal law.

(b) The definitions in this rule apply throughout this article. (*Department of Workforce Development; 646 IAC 2-1-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-1) to the Department of Workforce Development (646 IAC 2-1-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-2 "Administrative entity" defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 2. "Administrative entity" means that unit of general local government or an agency thereof, "the private industry council", or a nonprofit organization or legal entity selected by the private industry council in agreement with the chief elected official of a designated service area to administer those services of the department at the service area level described in the local plan of services. (*Department of Workforce Development; 646 IAC 2-1-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-2) to the Department of Workforce Development (646 IAC 2-1-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-3 "Carl Perkins" defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 3. "Carl Perkins" means the Carl D. Perkins Vocational Education Act of 1984, as amended. (*Department of Workforce Development; 646 IAC 2-1-3; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-3) to the Department of Workforce Development (646 IAC 2-1-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-4 "Chief local elected official" defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 4. "Chief local elected official" means the following:

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(1) The mayor or the president of the county commissioners in any service area where there is only one (1) unit of general local government, a city, or county.

(2) The mayor or president of the county commissioners in any service area where there are two (2) or more such units of general local government, a city, or a county.

(Department of Workforce Development; 646 IAC 2-1-4; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-4) to the Department of Workforce Development (646 IAC 2-1-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-5 “CVTE” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. “CVTE” means the commission on vocational and technical education. *(Department of Workforce Development; 646 IAC 2-1-5; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-5) to the Department of Workforce Development (646 IAC 2-1-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-6 “Department” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. “Department” means the department of employment and training services of the state of Indiana. *(Department of Workforce Development; 646 IAC 2-1-6; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-6) to the Department of Workforce Development (646 IAC 2-1-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-7 “Departmental employee” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. “Departmental employee” means employees under the state personnel system employed by the department. *(Department of Workforce Development; 646 IAC 2-1-7; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-7) to the Department of Workforce Development (646 IAC 2-1-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-8 “Disabled veteran” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 8. “Disabled veteran” means the following:

(1) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Veterans Administration.

(2) A person who was discharged or released from active duty because of a service-connected disability.

(Department of Workforce Development; 646 IAC 2-1-8; filed May 26, 1992, 5:00 p.m.: 15 IR 2223; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-8) to the Department of Workforce Development (646 IAC 2-1-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-9 “EDWAA” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 9. "EDWAA" means the Economic Dislocation and Worker Adjustment Assistance Act. (*Department of Workforce Development; 646 IAC 2-1-9; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-9) to the Department of Workforce Development (646 IAC 2-1-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-10 "Eligible veteran" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 10. "Eligible veteran" means a person who:

(1) served on active duty for a period of more than one hundred eighty (180) days and was discharged or released with other than a dishonorable discharge; or

(2) was discharged or released from active duty because of a service-connected disability.

(*Department of Workforce Development; 646 IAC 2-1-10; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-10) to the Department of Workforce Development (646 IAC 2-1-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-11 "Employment and training program" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 11. "Employment and training program" means those employment and training services of the department administered directly by the department, by contract through grant recipients, or other entities directly contracting with the department. (*Department of Workforce Development; 646 IAC 2-1-11; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-11) to the Department of Workforce Development (646 IAC 2-1-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-12 "Employment and training system" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 12. "Employment and training system" means that integrated network of services and activities administered by the department which includes the employment and training program, veterans services program, and the unemployment insurance program. (*Department of Workforce Development; 646 IAC 2-1-12; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-12) to the Department of Workforce Development (646 IAC 2-1-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-13 "Grant recipient" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 13. "Grant recipient" means the entity selected by the private industry council in agreement with the chief elected official of a designated service area to receive, distribute, and account for all funds received from the department and for any other funds for which the private industry council may have local oversight responsibility. (*Department of Workforce Development; 646 IAC 2-1-13; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-13) to the Department of Workforce Development (646 IAC 2-1-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-14 “IMPACT” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 14. “IMPACT” means the Indiana manpower placement and comprehensive training program of the office of the secretary of family and social services. (*Department of Workforce Development; 646 IAC 2-1-14; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-14) to the Department of Workforce Development (646 IAC 2-1-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-15 “Indiana workforce development coordinating council” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 15. “Indiana workforce development coordinating council” shall be the name given to the state job training coordinating council as described in Section 122 of the Job Training Partnership Act. (*Department of Workforce Development; 646 IAC 2-1-15; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-15) to the Department of Workforce Development (646 IAC 2-1-15) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-16 “JOBS” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 16. “JOBS” means the Job Opportunities and Basic Skill Act. (*Department of Workforce Development; 646 IAC 2-1-16; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-16) to the Department of Workforce Development (646 IAC 2-1-16) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-17 “JTPA” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 17. “JTPA” means the Job Training Partnership Act, as amended (29 U.S.C. 1501, et seq.). (*Department of Workforce Development; 646 IAC 2-1-17; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-17) to the Department of Workforce Development (646 IAC 2-1-17) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-18 “Labor dispute” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 18. “Labor dispute” means a work stoppage or anticipated work stoppage including, but not limited to, a strike or lockout between an employer and its covered workers. (*Department of Workforce Development; 646 IAC 2-1-18; filed May 26, 1992, 5:00 p.m.: 15 IR 2224; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-18) to the Department of Workforce Development (646 IAC 2-1-18) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-19 “Labor exchange” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 19. “Labor exchange” means the following:

(1) Those Wagner-Peyser services identified in subdivision (2) administered by the department and provided solely by the state merit employees to the full extent that funds are appropriated under the Wagner-Peyser Act, with no duplication of services by other entities. Labor exchange services may be provided by nondepartmental employees using non-Wagner-Peyser resources if Wagner-Peyser funds are insufficient to permit departmental employees to provide all the necessary and required services.

(2) Wagner-Peyser services include the following:

- (A) Assessment.
- (B) Testing, including state merit testing.
- (C) Employment counseling.
- (D) Job referral, including job service matching and resume system.
- (E) Job placement, including job service matching and resume system.
- (F) Job development.
- (G) Referral to job vocational education.
- (H) Dissemination of labor market information.
- (I) Meeting the unemployment insurance work test.
- (J) Providing qualified job applicants.
- (K) Mass recruitment.
- (L) Job analysis.
- (M) Statewide recruitment for hard to fill openings.
- (N) Targeted job tax credit (TJTC) vouchering.
- (O) Affirmative action and equal employment opportunity planning.
- (P) Interstate job clearance.

(3) Nothing in this section prohibits nondepartmental employees from providing those services defined in JTPA, IMPACT, JOBS, SINGLE PARENT HOMEMAKER, or other appropriate federal, state, local, and private revenue source programs. (*Department of Workforce Development; 646 IAC 2-1-19; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-19) to the Department of Workforce Development (646 IAC 2-1-19) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-20 “Nondepartmental employees” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 20. “Nondepartmental employees” means employees under local merit based personnel systems employed by grant recipients, administrative entities, or other entities contracting with the department. (*Department of Workforce Development; 646 IAC 2-1-20; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-20) to the Department of Workforce Development (646 IAC 2-1-20) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-21 “PIC” defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 21. “PIC” means the private industry council. (*Department of Workforce Development; 646 IAC 2-1-21; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-21) to the Department of Workforce Development (646 IAC 2-1-21) by P.L.105-

1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-22 “Preferential consideration” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 22. “Preferential consideration” means the department giving priority to department personnel for the provision of services other than labor exchange. Labor exchange shall be performed solely by state merit employees to the full extent of Wagner-Peyser funding. (*Department of Workforce Development; 646 IAC 2-1-22; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-22) to the Department of Workforce Development (646 IAC 2-1-22) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-23 “Private industry council” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 23. “Private industry council” means an entity comprised of no less than fifty-one percent (51%) representation from the private sector with the remainder comprised of representation from education, organized labor, rehabilitation, economic development, public employment service, and community-based organizations of each service area, which has responsibility to provide policy guidance, planning, and oversight of appropriate workforce development activities and other related employment and training activities in one (1) or more service areas of the state. (*Department of Workforce Development; 646 IAC 2-1-23; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-23) to the Department of Workforce Development (646 IAC 2-1-23) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-24 “Service area” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 24. “Service area” means an area of the state comprised of one (1) or more units of general local government that sets out the following:

- (1) Promotes effective delivery of employment and training services including services for economically disadvantaged, displaced workers, and other targeted groups as designated by federal and state assistance programs.
- (2) Is consistent with labor market areas or standard metropolitan statistical areas. This subdivision shall not be construed to require designation of an entire labor market area and is consistent with areas in which related services are provided under other state or federal programs.
- (3) Shares common boundaries for the delivery of related services administered by the department.
- (4) Has the same meaning as service delivery areas (SDA) under Title II of the JTPA and substate area (SDA) under Title III of JTPA.

(*Department of Workforce Development; 646 IAC 2-1-24; filed May 26, 1992, 5:00 p.m.: 15 IR 2225; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-24) to the Department of Workforce Development (646 IAC 2-1-24) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-25 “Special disabled veteran” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 25. “Special disabled veteran” means the following:

- (1) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to

compensation) under laws administered by the Veterans Administration for a disability:

(A) rated at thirty percent (30%) or more; or

(B) rated at ten percent (10%) or twenty percent (20%) in the case of a veteran who has been determined under 38 U.S.C. 1506 to have a serious employment handicap.

(2) A person who was discharged or released from active duty because of service-connected disability.

(Department of Workforce Development; 646 IAC 2-1-25; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-25) to the Department of Workforce Development (646 IAC 2-1-25) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-26 “SP/H” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 26. “SP/H” means the single parent and homemaker program and its service as provided for through Carl D. Perkins. *(Department of Workforce Development; 646 IAC 2-1-26; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-26) to the Department of Workforce Development (646 IAC 2-1-26) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-27 “Employment and training office” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 27. “Employment and training office” means the following:

(1) That much of any local facility in a service area and so designated in the local “plan of service”, for the express purpose of providing the department’s employment and training program, veterans services programs, and unemployment insurance program where designated by the department.

(2) “Employment and training center” means the same as subdivision (1).

(Department of Workforce Development; 646 IAC 2-1-27; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-27) to the Department of Workforce Development (646 IAC 2-1-27) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-28 “Unemployment insurance program” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4

Sec. 28. “Unemployment insurance program” means those unemployment insurance services including audit, appellate, claims, quality control, and other such services delivered by the department in accordance with federal and state law and in accordance with IC 22-4. *(Department of Workforce Development; 646 IAC 2-1-28; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-28) to the Department of Workforce Development (646 IAC 2-1-28) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-1-29 “Veteran of the Vietnam era” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 29. Subject to section 25 of this rule, “veteran of the Vietnam era” means an eligible veteran who:

(1) served on active duty for a period more than one hundred eighty (180) days and was discharged or released therefrom with other than a dishonorable discharge; or

(2) was discharged or released from active duty because of a service-connected disability during the Vietnam era.

No veteran may be considered to be a veteran of the Vietnam era under this section after December 31, 1991. *(Department of*

Workforce Development; 646 IAC 2-1-29; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-29) to the Department of Workforce Development (646 IAC 2-1-29) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-1-30 “Workers and job positions at issue” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 30. “Workers and job positions at issue” means the following:

(1) Those workers and job positions, filled or vacant, at issue between the employer and workers' representative in a labor dispute.

(2) Workers and job positions included in a collective bargaining agreement between an employer and workers' representative. *(Department of Workforce Development; 646 IAC 2-1-30; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-1-30) to the Department of Workforce Development (646 IAC 2-1-30) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 2. Powers and Duties

646 IAC 2-2-1 Executive director

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1-3

Sec. 1. (a) An executive director shall be appointed to administer the functions of the department as described in IC 22-4-18-3 *[Repealed by P.L.105-1994, SECTION 6, effective July 1, 1994.]*

(b) The department may periodically review, rescind, and/or reissue policy as it deems necessary. *(Department of Workforce Development; 646 IAC 2-2-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2226; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-2-1) to the Department of Workforce Development (646 IAC 2-2-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-2-2 Responsibilities

Authority: IC 22-4.1-2-3

Affected: IC 4-15-1-1; IC 22-4-18-1; IC 22-4-18-4; IC 22-4.1

Sec. 2. (a) Under IC 22-4-18-4, there are established in the department two (2) coordinate sections. One shall administer employment and training services, and the other shall administer unemployment insurance services. Each section shall be responsible for the discharge of its distinctive functions under the direction of the executive director.

(b) Responsibilities of the department shall be as follows:

(1) The department shall have all of the powers and duties as described in IC 22-4-18-1 and IC 22-4-18-5.

(2) The department may create and issue policy and operational directives necessary for the administration of the unemployment insurance services and all other employment and training services administered directly by the department or contracted through private industry councils, grant recipients, or other entities directly contracting with the department. The department will determine compliance in the instance of conflicting policy. The department will assume responsibility in instances where compliance with policy issued by the department conflicts and causes noncompliance with policy or directives issued by entities external to the department.

(3) Grant recipients, administrative entities, and any other entities contracting directly with the department may be subject to corrective actions for failure to meet performance standards established by the department.

(4) The corrective action may range from technical assistance to penalties for noncompliance with performance standards as defined by department policy and federal and state statutes and rules.

(5) The department shall adhere to the policies, principles, procedures, terms, and conditions of the state personnel system as contained in IC 4-15-1-1 et seq. for department personnel.

(6) The department shall require each grant recipient, administrative entity, and other entities contracting directly with the department to assure that their personnel system adheres to the merit based principles as defined by the U.S. Office of Personnel Management.

(c) Planning functions of the department shall be as follows:

(1) The department shall be responsible for the development of a state plan for the employment and training system that includes coordination between employment and training services and unemployment insurance services. This plan shall serve to meet all federal and state plan requirements for all department administered resources.

(2) The department shall be responsible for implementing the state plan for the employment and training system through the following:

(A) Issuance of, and the establishment of, standards of performance.

(B) Reviewing and approving locally submitted plans of service including those provisions which involve state merit employees.

(3) The department shall administer its resources through the employment and training system. Preferential consideration for the delivery of employment and training services shall be given to entities identified by private industry councils and chief elected officials of each service area unless the department determines that alternative entities would be more effective to achieve the state's goals as described in the state's employment and training plan. Contracts for the provision of Wagner-Peyser labor exchange services shall include requirements which ensure department employees are used exclusively in the provision of such services and that department employees are not displaced as a result of the contracts. This subdivision shall not be interpreted to mean that the supplementation of labor exchange services through resources other than Wagner-Peyser shall be limited to department employees in the event Wagner-Peyser funds are inadequate to provide the necessary and required labor exchange services. If Wagner-Peyser funds are reduced below current levels, the department will do all that is reasonably possible to retain current local service delivery levels, and full utilization of state merit employees, from whatever funding sources are available.

(4) Goals and objectives for the state plan shall be proposed by the Indiana workforce development coordinating council no later than the December before the beginning of the two (2) year planning cycle. The goals and objectives shall be consistent with the mission of the state's long range plan for vocational and technical education.

(5) The draft plan, or its modification, shall be submitted for review and comment to the commission for vocational and technical education and other appropriate entities as determined by the department and before the plan is recommended for approval to the governor by the Indiana workforce development coordinating council. The department shall present the plan to the general public for comment no later than the month of April prior to the start of the two (2) year planning cycle.

(6) At a minimum, the state plan for employment and training services shall provide the following:

(A) Experience of the employment and training system in the previous two (2) year planning cycle.

(B) The goals and objectives for the next two (2) year planning cycle.

(C) Priorities and direction for use of resources.

(7) The department may coordinate with the Indiana department of commerce to develop a joint plan for the coordination of resources under the direction of both departments, that results in employment opportunities for all citizens of the state with special emphasis for economically disadvantaged individuals, displaced workers, and others with substantial barriers to employment as well as meets the hiring needs of the state's employers with special emphasis on the recruitment, placement, and training needs of indigenous, small scale employers.

(Department of Workforce Development; 646 IAC 2-2-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2227; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-2-2) to the Department of Workforce Development (646 IAC 2-2-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 3. Indiana Workforce Development Coordinating Council and Unemployment Insurance Board

646 IAC 2-3-1 State council

Authority: IC 22-4.1-2-3

Affected: IC 5-14-1.5-1; IC 22-4.1

DEPARTMENT OF WORKFORCE DEVELOPMENT

Sec. 1. (a) Under IC 22-4-18-1.5, the state job training coordinating council shall serve as the Indiana workforce development coordinating council with responsibility for coordinating the state's human investment and workforce development resources to maximize the state's efforts to provide employment opportunities for all citizens of the state with special emphasis for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment. The council shall serve as the state advisory council required under the Wagner-Peyser Act, and other councils as determined by the governor, and provide oversight for the department's employment and training resources.

(b) The members of the council, including the chairperson, shall be appointed by the governor within sixty (60) days after a vacancy occurs.

(c) At a minimum, responsibilities of the council shall be as follows:

(1) Recommend a governor's coordination and special services plan and submit a copy of the state employment and training plan to the Indiana commission on vocational and technical education for its review.

(2) Recommend the following to the governor:

(A) Service areas for the delivery of employment and training programs.

(B) Plan resource allocations not subject to Section 202(a) of the JTPA.

(C) Provide management guidance and review for all programs in the state.

(D) Develop appropriate linkages with other programs.

(E) Coordinate activities with private industry councils.

(F) Recommend variations in performance standards for all employment and training programs of the department.

(3) Advise the governor and local entities on the local plans of service and certify the consistency of such plans with criteria under the governor's coordination and special services plan for coordination of activities under JTPA and Wagner-Peyser Act with other federal, state, and local employment-related programs, including programs operated in designated enterprise zones.

(4) Review the operation of programs conducted in each service area and the availability, responsiveness, and adequacy of state services and make recommendations to the governor, appropriate chief local elected officials, and private industry councils, service providers, the state legislature, and the general public with respect to ways to improve the effectiveness of such programs or services.

(5) Make an annual report to the governor, which shall be a public document, and issue such other studies, reports, or documents as the council deems advisable to assist service areas in carrying out the purposes of JTPA, the Wagner-Peyser Act, and other such federal, state, and local employment and training programs in the state.

(6) Identify, in coordination with the appropriate state agencies, the employment and training and vocational education needs throughout the state and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, adult education, workplace literacy, and other federal, state, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs.

(7) Comment at least once annually on the measures taken under Section 113(b)(9) of the Carl Perkins Vocational Education Act.

(8) In coordination with the appropriate state agency, advise the governor, the legislature, state agencies, and the appropriate federal agency, upon review of all plans regarding employment, training, and related service delivery systems in the state.

(9) Other duties as assigned by the governor.

(d) The council shall meet at least five (5) times a year and shall hold special meetings when called by the chairperson of the council. The council shall establish its own procedures and requirements with respect to place and conduct of its meetings consistent with IC 5-14-1.5-1. The department shall provide necessary staff to assist the council. (*Department of Workforce Development; 646 IAC 2-3-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2228; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-3-1) to the Department of Workforce Development (646 IAC 2-3-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-3-2 Unemployment insurance board

Authority: IC 22-4.1-2-3

Affected: IC 22-4-18-2; IC 22-4.1-2

Sec. 2. There shall be created the Indiana unemployment insurance board with responsibility for the unemployment insurance program as described in IC 22-4-18-2. There shall be at least one (1) joint meeting of the unemployment insurance board and the

workforce coordinating council to review the annual report of the department by the executive director. (*Department of Workforce Development; 646 IAC 2-3-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2229; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-3-2) to the Department of Workforce Development (646 IAC 2-3-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 4. Local Planning and Coordination

646 IAC 2-4-1 Private industry council (PIC)

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) Each service area shall have a PIC appointed by the chief elected official. Newly reorganized, or PICs in redesignated service areas, shall be certified by the governor. No employee of the department, grant recipient, or administrative entity shall be appointed to the PIC, except where the grant recipient is a unit of local government or a state public education institution. In these cases, the appointee may not have direct supervisory authority over the unit charged to carry out the responsibilities of the grant recipient. The department shall appoint a representative to the PIC to represent employment service activities.

(b) The PIC shall have responsibility for policy, planning, and oversight of all resources addressed in the state approved local plan of service.

(c) The PIC and the chief local elected official shall determine the grant recipient and administrative entity for the resources under the local plan of service. The grant recipient and administrative entity may be the same entity. Grant recipients and administrative entities shall be not-for-profit organizations. (*Department of Workforce Development; 646 IAC 2-4-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2229; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-4-1) to the Department of Workforce Development (646 IAC 2-4-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-4-2 Bylaws

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. (a) The PIC shall establish bylaws which include provisions for the selection of a chairperson, provided the chairperson is a representative of the private sector. The bylaws shall include conflict of interest provisions in accordance with department policy. For purposes of this subsection, a conflict of interest exists between the PIC and a member of the PIC with respect to:

(1) a contract, transaction, or other matter of the contract that is between the council and the member;
(2) any corporation, partnership, firm, association, or other entity in which the member is an officer, employee, or director receiving compensation other than per diem or expenses; or

(3) any corporation, partnership, firm, association, or other entity in which the member is financially interested.

(b) A member of the PIC is "financially interested" in a corporation, partnership, firm, association, or other entity if:

(1) the member or a spouse, or unemancipated child of the member, owns any legal or beneficial interest in the corporation, partnership, firm, or other entity, whether equity or debt, with a fair market value of greater than five thousand dollars (\$5,000);

(2) the member or a spouse, or unemancipated child of the member, would directly benefit financially from a contract, transaction, or other matter between the council and corporation, partnership, firm, association, or other entity; or

(3) the member knows that any of the following family members receives compensation other than per diem or expenses as an officer, director, partner, or other principal of the corporation, partnership, firm, association, or other entity:

(A) spouse;

(B) parent;

(C) child;

(D) sibling;

(E) grandparent;

(F) grandchild;

(G) sibling of spouse; or

(H) spouse of any person listed in clauses (B) through (G);

provided, however, that a member is not financially interested if the legal or beneficial interest consists of securities publicly traded on a national or regional securities exchange and the member's ownership does not exceed five percent (5%) of those securities outstanding or is a time or demand deposit in a financial institution or insurance policy.

(c) The minimum standards to be included in the conflict of interest provisions of the bylaws shall be as follows:

(1) A PIC member with a conflict of interest regarding any matter is prohibited from participating in discussions and from voting in connection with that matter.

(2) Any PIC member who significantly participates in the development of contract specifications or standards is prohibited from receiving any direct financial benefit from any resulting contract.

(3) All PIC members must file annual statements of economic interest with the secretary of the PIC.

(4) Any PIC member with a potential conflict of interest must disclose that fact to the PIC as soon as the potential conflict is discovered.

(5) Any time that a contract or purchase is made by a PIC involving its own member, the PIC must justify the terms and conditions of the contract or purchase.

(d) The PIC shall assure, in the local plan of service, that the department's resources are administered by an entity adhering to merit based personnel principles approved by the department. (*Department of Workforce Development; 646 IAC 2-4-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2229; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-4-2) to the Department of Workforce Development (646 IAC 2-4-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-4-3 Development of local plans

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) The department shall issue instructions for the plan of service for service areas in the state. The plan of service shall include the following:

(1) How services will be integrated in each service area using the federal and state resources administered by the department.

(2) How the employment and training program and unemployment insurance program will be coordinated at the local level.

(b) The local plan of service shall be developed by the PIC in coordination with locally based departmental employees.

(c) The manager or supervisor of an integrated office, or group of smaller offices, may be either a state employee of the department of employment and training services or an employee of the private industry council, its administrative entity, or grant recipient.

(d) The plan of service shall be reviewed by the department and the Indiana workforce development coordinating council. Local plans consistent with the instructions and the state plan shall be approved by the department. Following approval, the department shall enter into a contract with the grant recipient.

(e) At a minimum, the plan of service shall include the following:

(1) A description of the need for employment and training services.

(2) A description of the services that will address the need.

(3) Projected outcomes for services.

(f) At a minimum, the contract for services shall include the following:

(1) An organizational chart which shows the formal and functional supervisory lines of department personnel in the service area.

(2) The contract shall provide that every local department employee will be formally supervised by another department employee. If the office/supervisor manager is not a state employee of the department, the executive director shall designate a state employee supervisor or manager in that service delivery area to execute all state required supervisory functions relating to the state merit workforce. Such formal supervision shall include the following:

(A) Hiring.

(B) Discipline, up to and including termination.

(C) Demotion.

- (D) Promotion.
- (E) Transfer.
- (F) Suspension.
- (G) Evaluation.
- (H) Grievance processing.

(3) Work assignments and day-to-day functional management of local department employees (except unemployment insurance staff) may be conducted by a local nondepartmental employee, in accordance with the locally approved contract between the grant recipient and the department. As an alternative to this option, a PIC may contract with DETS with non-Wagner-Peyser funds for the provision of a state employee to manage and supervise the local state merit workforce when Wagner-Peyser funds are insufficient.

(4) The work assignment location for each Wagner-Peyser personnel control number.

(5) Assurance that written policies or procedures for a single intake procedure for JTPA and Wagner-Peyser services is maintained by the administrative entity.

(6) An assurance that work assignments for department personnel shall conform to the local plan of services mutually agreed to by the private industry council, chief elected official, and the department. All such work assignments shall be consistent with state personnel requirements and be within allowable Wagner-Peyser activities. In the event the PIC has contracted with the state (with non-Wagner-Peyser funds) to utilize state merit employees to perform other employment and training services, all such work assignments shall be consistent with state personnel requirements.

(g) Contract compliance shall be determined based on compliance with applicable federal and state laws and regulations, policy of the department, and standards of performance. (*Department of Workforce Development; 646 IAC 2-4-3; filed May 26, 1992, 5:00 p.m.: 15 IR 2230; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-4-3) to the Department of Workforce Development (646 IAC 2-4-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 5. Employment and Training Programs

646 IAC 2-5-1 Service area designation

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) The governor shall designate service areas based on the recommendation of the Indiana workforce development coordinating council.

(b) The governor shall approve any request to be a service area from the following:

(1) Any unit of general local government with a population of two hundred thousand (200,000) or more.

(2) Any consortium of contiguous units of general local government with an aggregate population of two hundred thousand (200,000) or more which serves as a substantial part of one (1) or more labor market areas.

(c) The governor may approve a request to be a service area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

(d) If the governor denies a request submitted under this section and the entity making such a request alleges that the decision of the governor is contrary to the provisions of this section, such entity may appeal the decision to the secretary of labor, who shall make a final decision within thirty (30) days after such appeal is received.

(e) The governor may redesignate service areas no more frequently than every two (2) years. Such redesignation shall be made not later than four (4) months before the beginning of the program year. The governor shall make such redesignation if a petition to do so is filed by an entity specified in subsection (b). (*Department of Workforce Development; 646 IAC 2-5-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2231; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-5-1) to the Department of Workforce Development (646 IAC 2-5-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 2-5-2 Service provider selection

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. (a) The department may issue policies for the selection of service providers or program services distinct from the procurement policies applicable to vendors of supplies, equipment, construction, and services consistent with subsection (d).

(b) These policies shall apply to the department, grant recipients, administrative entities, and other entities directly contracting with the department, contracted by the department for the provisions of employment and training services, and all subcontractors of those entities who provide employment and training services in an assistance relationship for programs for which the department has administrative responsibility.

(c) The department shall require that grant recipients and other entities directly contracting with the department have written policies and procedures to assure that primary consideration in selecting agencies or organizations to deliver services within a service area shall be based upon the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance goals, costs or price, quality of training, and characteristics of participants. Organizations or agencies so selected must be entities which are legally authorized to enter into contractual relationships.

(d) The department shall require grant recipients, and other entities directly contracting with the department for funds other than Wagner-Peyser, to have written procurement policies which include prohibition against the duplication of facilities or services available in the area (with or without reimbursement) from federal, state, or local services, unless it is demonstrated that the alternate services or facilities would be more effective or more likely to achieve the service area's performance goals. (*Department of Workforce Development; 646 IAC 2-5-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2231; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-5-2) to the Department of Workforce Development (646 IAC 2-5-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-5-3 Job orders

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) The department and its grant recipients shall make no job referrals on job orders which will aid directly or indirectly in the filling of a covered job opening:

- (1) which is vacant, or anticipated to be vacant, because the former occupant is, or is anticipated to be, on strike;
- (2) is being locked out in the course of a labor dispute;
- (3) the filling of which is otherwise an issue in a labor dispute involving a work stoppage; or
- (4) which provides any other department service involving covered workers and job positions in an employing establishment.

(b) Written notification shall be provided to all applicants referred to jobs that are not at issue in the labor dispute and shall include the following:

- (1) Notification that a labor dispute exists in the employing establishment.
- (2) Notification that the job to which the applicant is being referred is not at issue.

(c) When a job order or request for department services is received from an employer reportedly involved in a labor dispute involving a work stoppage, the department or its grant recipients shall do the following:

- (1) Verify the existence of the labor dispute and determine its significance with respect to each vacancy involved in job orders.
- (2) Notify all potentially affected staff concerning the labor dispute.

(d) The department and its grant recipients shall resume full department services when they have been notified of, and verified with the employer and the workers' representative, that the labor dispute has been terminated.

(e) The department shall notify the regional office, in writing, of the existence of a labor dispute which:

- (1) results in a work stoppage at an establishment involving a significant number of workers; or
- (2) involves multiestablishment employers with other establishments outside the reporting state.

(*Department of Workforce Development; 646 IAC 2-5-3; filed May 26, 1992, 5:00 p.m.: 15 IR 2231; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-5-3) to the Department of Workforce Development (646 IAC 2-5-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 6. Reports and Record Keeping

646 IAC 2-6-1 Reports and record keeping

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) The department shall be required to keep records that are sufficient to permit the preparation of reports required by federal and state funding sources and to permit the tracing of funds to a level of expenditure adequate to ensure that funds have not been spent unlawfully.

(b) Each grant recipient shall make reports in the form and manner determined by the executive director to enable the department to assure adherence to fiscal requirements, determine program effectiveness and integrity, conform to requirements of the JTPA, Wagner-Peyser Act, and corresponding regulations, and fulfill other requirements of programs which it administers.

(c) Each grant recipient, and other entities directly contracting with the department, shall keep fiscal programmatic and participant records that are sufficient to permit preparation of reports required by the department and the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(d) Each grant recipient, and other entities directly contracting with the department, shall, as specified by the director, maintain such records and submit such reports in such form and containing such information as the department requires regarding the performance of its programs. (*Department of Workforce Development; 646 IAC 2-6-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2232; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-6-1) to the Department of Workforce Development (646 IAC 2-6-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 7. Fiscal and Programmatic Accountability

646 IAC 2-7-1 Fiscal accountability

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) The department shall establish policies, standards, and guidelines for the procurement of supplies, equipment, construction, and services for itself, grant recipients, and other entities directly contracting with the department. Procurement policies, standards, and guidelines established by the department shall be consistent with existing state procurement policies, and where not otherwise required or precluded by statute, the department may determine and adopt appropriate cost and management principles as its procurement policies, standards, and guidelines for itself, for grant recipients, and other entities directly contracting with the department.

(b) The department shall require that grant recipients, and other entities directly contracting with the department, develop written policies and procedures consistent with the following:

(1) Applicable federal Office of Management and Budget circulars.

(2) The provisions of 41 CFR 29 through 41 CFR 70.

(3) Other policies and guidelines developed by the department.

Local policies and procedures shall not be less restrictive than those established by the department. (*Department of Workforce Development; 646 IAC 2-7-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2232; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-1) to the Department of Workforce Development (646 IAC 2-7-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-7-2 Match

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. The department shall define and require the provision of adequate resources to meet the matching requirements of state

and federal assistance programs and any existing state or federal laws. (*Department of Workforce Development; 646 IAC 2-7-2; filed May 26, 1992, 5:00 p.m.: 15 IR 2232; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-2) to the Department of Workforce Development (646 IAC 2-7-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-7-3 Programmatic incentives or remedies

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) The department shall determine applicable remedies for noncompliance with the law, regulations, and department policy.

(b) Remedies may include, but are not limited to, the following:

(1) Withholding of funds.

(2) Technical assistance as part of corrective action.

(3) Reorganization of the private industry council.

(4) Redesignation of the service area.

(c) The department shall establish an incentive system based on performance measures for the purpose of oversight, evaluation, and monitoring the performance of an integrated employment and training system. (*Department of Workforce Development; 646 IAC 2-7-3; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-3) to the Department of Workforce Development (646 IAC 2-7-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 2-7-4 Oversight

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. (a) The department shall perform evaluation, monitoring, and audits at intervals and depth of scope in such a manner as determined by the department and consistent with requirements of the Indiana state board of accounts.

(b) The department shall determine and communicate the oversight responsibilities and activities of the grant recipient, administrative entity, and other entities directly contracting with the department.

(c) The department may periodically review, rescind, and/or reissue policy as it deems necessary.

(d) The department shall evaluate its program according to applicable evaluation criteria established by the Indiana commission on vocational and technical education and shall submit findings to the commission.

(e) As used in this section, the "department's program" means the comprehensive service areawide program administered by the department's grant recipients. The department shall submit findings regarding its sixteen (16) grant recipients to the commission annually. The department shall not evaluate eligible recipients as defined by the Carl Perkins Act.

(f) The department shall not deny funding to grant recipients based on any effectiveness criteria which is not a requirement of any act or rule pertinent to the department's funding sources.

(g) The department shall not utilize any effectiveness criteria which are measurements of process rather than outcomes.

(h) The department shall not use funds from JTPA, Wagner-Peyser Act, Trade Adjustment Assistance, Unemployment Insurance, or any other current funding source for the purpose of carrying out any such evaluations which are beyond the requirements of the department of labor for measuring program effectiveness. (*Department of Workforce Development; 646 IAC 2-7-4; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-7-4) to the Department of Workforce Development (646 IAC 2-7-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 8. Uniform Identification of Employment and Training Offices

646 IAC 2-8-1 Logo

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) The department shall designate an official logo, and employment and training offices shall incorporate the logo in signage and letterheads.

(b) This section shall not preclude a service area from utilizing any other logo in addition to that designated by the department. *(Department of Workforce Development; 646 IAC 2-8-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-8-1) to the Department of Workforce Development (646 IAC 2-8-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 9. Programmatic Grievance

646 IAC 2-9-1 Establishment of grievance procedures

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) The department shall formulate and maintain a state level grievance procedure and shall ensure the establishment of procedures at the service area level for any complaint involving violation of rules and regulations of state and federal programs for which the department has responsibility.

(b) Each grant recipient, administrative entity, or other entities directly contracting with the department, shall establish and maintain a grievance procedure for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons.

(c) Nothing in this section precludes or supersedes access to grievance procedures under state or local merit personnel policies and procedures.

(d) At a minimum, a grievance procedure shall include those provisions identified in the JTPA and department policy. *(Department of Workforce Development; 646 IAC 2-9-1; filed May 26, 1992, 5:00 p.m.: 15 IR 2233; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Department of Employment and Training Services (645 IAC 3-9-1) to the Department of Workforce Development (646 IAC 2-9-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

ARTICLE 3. INDIANA EMPLOYMENT SECURITY ACT; ADMINISTRATION

Rule 1. Contributions; Reports; Sickness and Accident Disability; Group Accounts

646 IAC 3-1-1 Quarterly contributions and reports; taxable wages defined; wage reports

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 1. (a) Every employer subject to IC 22-4 shall file quarterly contribution reports on forms prescribed by the department, or on electronic media in a format approved by the department. These reports are due on or before the last day of the month next following the quarter for which such reports are filed. Contributions are due and payable at the time these reports are filed, except for those employers who have elected to become liable for payments in lieu of contributions.

(b) Such reports must show the total remuneration paid for covered employment as well as wages subject to contribution. The amount of payroll subject to contribution for any year is termed "wages" and is limited as follows:

(1) "Wages", as used in this section, shall not include remuneration in excess of the taxable wage base established by law paid to an individual by a single employer in a calendar year with the following exceptions:

(A) In cases of an acquisition of the organization, trade, or business of an employer, or the acquisition of a distinct and segregable portion of such business, the remuneration paid to an individual by the predecessor will be combined with remuneration paid to the same individual by the successor in the same calendar year in which the acquisition occurs

to determine the taxable wage base limitation.

(B) The remuneration paid by an employer to an employee in another state will be combined with the remuneration paid by the same employer to the same employee in the same calendar year in this state to determine the taxable wage base limitation.

(2) Concurrent with the quarterly contribution report, each employer shall be required to file a wage report. The wage report shall show the total remuneration paid for covered employment to each employee in any calendar quarter. Total remuneration includes taxable wages as well as remuneration in excess of taxable wages paid to each individual in a calendar year.

(Department of Workforce Development; Rule 1; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 864; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 29; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 126; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 36; filed Apr 29, 1957, 4:00 p.m.: Rules and Regs. 1958, p. 50; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 31; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 30; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 42; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 71; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 154; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 59; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1907; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Alternatively cited as Sec. 1, Rule 1; Part 1, Rule 1; Part I, Rule 1. NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-1) to the Department of Workforce Development (646 IAC 3-1-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-2 Reports and contributions due for entire calendar year; newly qualified employers

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. (a) Reports and contributions from an employer are required for the entire calendar year in which the employer first becomes subject to the law. The due date of contributions and reports for the quarter or quarters preceding the quarter in which the employing unit qualifies as an employer is the date upon which the employing unit actually acquired the status of an employer within the meaning of the law; however, interest and penalty shall not accrue on past quarters until thirty (30) days after such date.

(b) The reference to contributions in subsection (a) shall not apply to those employers that have elected to become liable for payments in lieu of contributions. However, the reference to reports applies to all employers. *(Department of Workforce Development; Rule 3; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 866; filed Dec 30, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 85; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 72; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 155; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1908; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-2) to the Department of Workforce Development (646 IAC 3-1-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-1-3 “Nothing to report”

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Every qualified employer is required to send in quarterly contribution reports even if no contributions are due. Reports must be sent to the department until the director grants permission to the employer to discontinue filing. If the employer finds that in a particular quarter no payroll has been incurred and no contributions are due, then the employer shall file a contribution report marked “Nothing to Report”. *(Department of Workforce Development; Rule 4; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 866; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1908; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-3) to the Department of Workforce Development (646 IAC 3-1-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-1-4 Correction of errors; additional contributions due; credits or refunds

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 4. (a) No contribution report when once accepted will be returned to the employer for correction. Whenever it is

discovered that an error has been made in filing a contribution report, the employer shall submit a detailed explanation indicating the reason for such error. The explanation shall include the:

- (1) name;
- (2) Social Security numbers;
- (3) amount reported;
- (4) correct amount; and
- (5) difference by quarters;

for each employee affected. This adjustment may reflect either an underpayment or overpayment of contributions to the department. If additional contributions are due by reason of an underpayment, remittance plus interest from the due date must be included. If a credit or refund results from an overpayment, upon approval by the department, a credit memo will be issued, which may be taken on the subsequent quarterly report. If the refund is greater than the amount due on the subsequent quarterly report, a claim for refund shall be filed by the employer as provided in this section. An employer shall be notified when it is discovered that an overpayment has been made to the account and shall be given an opportunity to file a claim for refund in the amount of any such overpayment.

(b) No claim for refund shall be considered unless the employer claiming such refund has made application to the director upon the form prescribed by the department. This form must set forth the following:

- (1) The amount of overpayment claimed.
- (2) The period covered by the report upon which the overpayment was made.
- (3) The full reason upon which the claim is based.

(c) A claim for refund must be executed by the person to whom the claim is alleged to be due. A claim for refund by a corporation must be made in the name of the corporation and executed by an officer thereof. A fiduciary will be required to furnish a certified copy of appointment to accompany a claim for refund on contributions not paid in fiduciary capacity. (*Department of Workforce Development; Rule 6; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 867; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 30; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 72; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1909; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-4) to the Department of Workforce Development (646 IAC 3-1-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-5 Meals and lodging as wages; valuation

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. (a) Meals and lodging allowed by an employer to employees as increased or additional remuneration shall be deemed wages subject to contribution.

(b) Where the employer provides a fixed amount to the employee for meals and lodging, that fixed amount shall be considered the amount of additional remuneration.

(c) Where a fixed amount is not allowed by the employer to the employee, the amount of additional remuneration will be the actual cost of the meals and lodging.

(d) Provided, however, that where meals and lodging are furnished by the employer, on the premises of the employer, and for the convenience of the employer, then those meals and lodging and the value thereof are not considered remuneration subject to contributions.

(e) The following are examples of meals not considered taxable remuneration:

(1) An employer owns an apartment project. He hires a man to act as maintenance man and his wife to handle rentals and show units to prospective renters. As these employees are expected to be on twenty-four (24) hour call, the employer furnishes them with an apartment in addition to their normal remuneration. As the apartment is furnished for the convenience of the employer, the value of the apartment is not considered taxable remuneration to the employees.

(2) A restaurant owner provides meals to his waitresses and prefers that they remain on the premises during rush hours in the event of an unusually large amount of customers. As these meals are provided for the convenience of the employer, they are not considered taxable remuneration.

(*Department of Workforce Development; Rule 8; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 869; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 32; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 37; filed Feb 11, 1958, 2:00 p.m.:*

Rules and Regs. 1959, p. 74; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 43; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 73; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1909; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-5) to the Department of Workforce Development (646 IAC 3-1-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-6 Termination or transfer of business; notice; final report; attachment of successor's assets

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 6. (a) Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustee, trustee in bankruptcy, or other fiduciary, the employer shall immediately notify the department, and contributions with respect to wages for employment up to and including the date of the change of status and with respect to amounts which would otherwise constitute wages, as defined in IC 22-4, except for nonpayment thereof are immediately due and payable. The employer shall immediately file necessary contribution and wage reports, showing all remuneration of each of his employees for employment occurring in the calendar quarter in which the change of status occurred, and all previous unreported contributions and remuneration. Reports covering the calendar quarter in which the change of status occurred shall be marked "final report".

(b) Whenever an employer disposes of his organization, trade, or business, in whole or in part, it shall be the duty of both the employer and his successor to notify the department thereof on the forms prescribed by the department. If the disposing employer is a corporation, the employer shall follow the dissolution procedure described in IC 22-4-32-23. (*Department of Workforce Development; Rule 10; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 870; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 32; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 31; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 73; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1910; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-6) to the Department of Workforce Development (646 IAC 3-1-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-1-7 Successor employers; notice; transfer of experience account; liability for contributions

Authority: IC 22-4.1-2-3

Affected: IC 22-4-7-1; IC 22-4-7-2; IC 22-4.1

Sec. 7. (a) The director is authorized to determine when there has been an acquisition of the organization, trade, or business of an employer within the meaning of IC 22-4-7-2(a) through IC 22-4-7-2(b) and IC 22-4-10-6. Each employer who disposes of all or a part of its organization, trade, or business and the successor to that business, or part of that business, shall immediately report the transaction to the department and execute prescribed forms. If the director finds that there has been an acquisition under IC 22-4-7-2(a) by an employing unit not previously an employer within the meaning of IC 22-4-7-1 or IC 22-4-7-2, the disposing employer's entire experience account shall be transferred to the successor and the successor shall immediately assume the position of the disposing employer with respect to the resources and liabilities reflected by the experience account as if no change had occurred. If the director finds that, within the meaning of IC 22-4-7-2(a), there had been an acquisition from an employer by an employer already subject to contribution, the disposing employer's experience account shall be transferred to the successor, but the successor shall retain its rate of contribution. Provided, however, should no reports be received by the director, then at the expiration of thirty (30) days from the date of the acquisition, transfer may be made by the director upon his own motion. Whenever a total transfer is made, the status of the original employer as an employer under IC 22-4 is terminated unless and until such employer subsequently qualifies under IC 22-4-7-1 or IC 22-4-7-2.

(b) The acquiring employer, if not previously a subject employer shall, as of the date of acquisition, become liable for contributions with respect to all wages paid to his own employees during the entire calendar year. If the acquiring employer becomes liable by reason of the acquisition, and acquires all or part of the predecessor's experience account, it shall, beginning with the first day of the calendar quarter in which the acquisition occurs, pay contributions at the rate applicable to the predecessor employer at the time of the acquisition until its rate is computed for the next succeeding calendar year. Provided, however, that if the successor employer simultaneously acquires all or part of the experience balance of two (2) or more employers, its rate, beginning with the first day of the calendar quarter in which the acquisitions occurred, shall be the highest rate applicable to the experience accounts totally acquired. Provided further, that if the successor employer had any employment prior to the date of acquisition upon which

contributions were owed under IC 22-4-9-1, its rate of contribution from the first of such year to the first day of the calendar quarter in which the acquisition occurred shall be two and seven-tenths percent (2.7%). If such employer becomes liable by reason of an acquisition within the meaning of IC 22-4-7-2(b), and does not acquire a part of the experience account of the disposer, its rate shall be two and seven-tenths percent (2.7%) until a higher or lower rate is established under IC 22-4-11-2 and IC 22-4-11-3. If the acquiring employer was an employer at the time of the acquisition, the contribution rate assigned to it for that year shall continue throughout the remainder of the year.

(c) Where there is no transfer of an account to a successor and an employer has legally terminated its liability, then the employer's account shall be terminated and closed. Provided, however, that if that employer again becomes subject to the law within four (4) years of the date of termination of its account, then it shall resume its former position with respect to the resources and liabilities of the experience account and shall be entitled to an experience rate computation under IC 22-4-11-2 and IC 22-4-11-3 if benefits have been payable from and chargeable to its experience account throughout the thirty-six (36) months immediately preceding the computation date.

(d) Domestic employment, as defined in IC 22-4-7-2(i) will not be considered in the transfer of an experience account under IC 22-4-7-2(a) or IC 22-4-7-2(b). The disposer will retain the domestic portion of its experience account and will be assigned a new reporting number. (*Department of Workforce Development; Rule 11; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 871; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 32; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 37; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 211; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 110; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 74; filed Aug 19, 1971, 3:30 p.m.: Rules and Regs. 1972, p. 31; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 155; filed Nov 25, 1975, 3:05 p.m.: Rules and Regs. 1976, p. 103; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 60; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1910; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-7) to the Department of Workforce Development (646 IAC 3-1-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-8 Termination of coverage; partial disposition of business

Authority: IC 22-4.1-2-3
 Affected: IC 22-4-7-1; IC 22-4.1

Sec. 8. Any employer who has disposed of a segregable portion of his business and a part of the resources and liabilities of his experience account is assumed by the acquirer shall cease to be an employer at the end of the year in which the disposition occurred only if the department finds that the portion retained by the disposer would not have qualified the employer under IC 22-4-7-1 if it had constituted the disposer's entire organization, trade, or business throughout such calendar year; provided, that no employer thus disposing of a segregable portion of its organization, trade, or business shall cease to be an employer at the end of the first year. (*Department of Workforce Development; Rule 12; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 873; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 34; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 128; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 157; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1911; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-8) to the Department of Workforce Development (646 IAC 3-1-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-9 Sick pay consideration wages; disability payments defined

Authority: IC 22-4.1-2-3
 Affected: IC 22-4-4-1; IC 22-4-4-2; IC 22-4-5-1; IC 22-4-5-2; IC 22-4.1

Sec. 9. (a) "Sick pay", as referred to in IC 22-4-4-1, IC 22-4-5-1, and IC 22-4-5-2, means the amounts paid to an employee during periods of temporary absence due to illness or injury, and it is anticipated by both the employer and the employee that he will return to service; and when the employer holds himself in readiness to receive the services of the employee, the employment relationship is considered to continue. The amounts paid for such absences shall be considered remuneration and deductible income.

(b) Sickness or accident disability payments as referred to in IC 22-4-4-2(b) means payments made to or on behalf of an individual after his employment relationship has been severed by disabling sickness or accident, and it is anticipated that he will not return to employment. (*Department of Workforce Development; PTI, Rule 15; filed Aug 2, 1968, 8:50 a.m.: Rules and Regs. 1969, p. 30; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 75; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 157; filed*

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Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-9) to the Department of Workforce Development (646 IAC 3-1-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-10 Group accounts

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-1; IC 22-4.1

Sec. 10. If two (2) or more employers elect to form a group account under IC 22-4-10-1(c), the department will retain separate account numbers for each employer; however, a common mailing address will be assigned to each account. Separate reports will be required, but all billings will be mailed to the designated common mailing address, and only one (1) payment will be required to cover all billings sent to members of the group account. *(Department of Workforce Development; Rule 19; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 61; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-11) to the Department of Workforce Development (646 IAC 3-1-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-1-11 Accelerated tax payments under schedule "A"; procedures

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-1; IC 22-4.1

Sec. 11. Pursuant to the authority granted by IC 22-4-10-1 the Board, when schedule A is in effect, may accelerate tax payments. When the Board determines that tax payments should be accelerated under the conditions set forth in the law, each subject employer will be notified by regular mail not less than thirty (30) calendar days prior to the date the accelerated contribution is due. The employer shall estimate the amount of the accelerated tax payment based upon its projection of its estimated payroll for the accelerated quarter, and will remit that amount in whole or in a percentage of the whole as determined by the Board.

Any amount of estimated accelerated payment which exceeds the amount of tax actually owed by any employer for the quarter to which the acceleration applies shall not be refunded to that employer but shall be applied as a credit against future liability. If the amount of estimated accelerated tax is less than that actually owed by any employer for the quarter to which the acceleration applies, the difference between the estimated tax paid and the actual tax owed shall be paid at the time the tax is normally due for that quarter which was accelerated.

The enforcement procedures applicable to regular tax contributions shall apply to accelerated contributions. *(Department of Workforce Development; Rule 20; filed Jul 13, 1982, 2:22 pm: 5 IR 1829; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-12) to the Department of Workforce Development (646 IAC 3-1-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 2. Definitions

646 IAC 3-2-1 Definitions

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Workforce Development; 646 IAC 3-2-1; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-1) to the Department of Workforce Development (646 IAC 3-2-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-2-2 "Employee" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. "Employee" means any individual performing personal services for remuneration or under a contract of hire. (*Department of Workforce Development; 646 IAC 3-2-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-2) to the Department of Workforce Development (646 IAC 3-2-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-3 "Governmental entity" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-2; IC 22-4.1

Sec. 3. (a) "Governmental entity" pertains to IC 22-4-8-2(i)(1), a "political subdivision" ordinarily includes a county, city, town, village, or school district, sanitation, utility, reclamation, improvement, drainage, irrigation, flood control, or similar district. The term also includes an instrumentality of the state, or of one (1) or more political subdivisions of the state, or the state and one (1) or more of its political subdivisions.

(b) As used in this section, "instrumentality" means a legal entity organized to carry on some function of government for the state or political subdivision. It is an independent legal entity with the power to hire, supervise, and discharge its employees, and generally it may sue and be sued, enter into a contract, and hold or transfer property in its own name.

(c) Organizations such as libraries and hospitals may be integral parts of cities, counties, or other political subdivisions, and, if so, their coverage would depend on the coverage of the political subdivision of which they are a part. They may be a political subdivision in themselves, or they may be a private nonprofit organization. (*Department of Workforce Development; 646 IAC 3-2-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-3) to the Department of Workforce Development (646 IAC 3-2-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-4 "Full time" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. "Full time" means that number of hours which are customarily considered full time prevailing in the industry of establishment. (*Department of Workforce Development; 646 IAC 3-2-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-4) to the Department of Workforce Development (646 IAC 3-2-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-5 "Instructional" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. "Instructional" means services which consist of the following:

(1) Teaching, tutoring, or lecturing.

(2) Directing or supervising the instructional activities of others.

(3) Counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(*Department of Workforce Development; 646 IAC 3-2-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-5) to the Department of Workforce Development (646 IAC 3-2-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-6 "Research" defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. "Research" means services which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. (*Department of Workforce Development; 646 IAC 3-2-6; filed Apr 30, 1992,*

5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-6) to the Department of Workforce Development (646 IAC 3-2-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-7 “Principal administrative” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. “Principal administrative” means services which consist of managing the educational institution or one (1) of its divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the educational institution or one (1) of its major divisions or departments. (*Department of Workforce Development; 646 IAC 3-2-7; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-7) to the Department of Workforce Development (646 IAC 3-2-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-8 “Department” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4-2-11; IC 22-4.1

Sec. 8. “Department” means the Indiana department of work force development, unless otherwise indicated by context. (*Department of Workforce Development; 646 IAC 3-2-8; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)

646 IAC 3-2-9 “Board” defined

Authority: IC 22-4.1-2-3

Affected: IC 22-4-2-3; IC 22-4.1

Sec. 9. “Board” means the Indiana unemployment insurance board, unless otherwise indicated by context. (*Department of Workforce Development; 646 IAC 3-2-9; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)

Rule 3. Employment Defined; Single Unit Employers; Trustees; Helpers

646 IAC 3-3-1 Employees of trustee

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Employees of Trustee. Individuals hired by a trustee to perform services in connection with the trust property and who are paid from the funds of the trust are considered in the employment of the trust and not the trustee. (*Department of Workforce Development; Reg 102; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 875; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-2-2) to the Department of Workforce Development (646 IAC 3-3-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-3-2 Bankruptcy trustee

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Trustee in Bankruptcy. A trustee in bankruptcy may be an employing unit or an employer, but remuneration paid to him for his services as a trustee in bankruptcy is not considered wages because such trustee is not in employment. (*Department of Workforce Development; Reg 103; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 875; readopted filed Aug 31, 2001,*

11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-2-3) to the Department of Workforce Development (646 IAC 3-3-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-3-3 Common paymaster; designation

Authority: IC 22-4.1-2-3

Affected: IC 22-4-6-3; IC 22-4.1

Sec. 3. If two or more related corporations meet the requirements as defined under IC 22-4-6-3, they may file an application on prescribed division forms designating one related corporation to be the common paymaster. The same individual who has an employment relationship with two or more related corporations would have his wages reported by the designated common paymaster and only his first \$7,000.00 in remuneration would be subject to contribution.

The related corporations will still be required to submit quarterly contribution reports under their assigned account number and report wages and pay required contribution on all their other employees at the rate assigned to each corporation. (*Department of Workforce Development; 646 IAC 3-3-3; filed Mar 10, 1986, 1:30 pm: 9 IR 1969; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-2-5) to the Department of Workforce Development (646 IAC 3-3-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 4. Qualifying as an Employer

646 IAC 3-4-1 "Twenty weeks" qualification

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. In determining whether or not an employing unit has had in employment, or has incurred liability for wages payable to one (1) or more individuals, for twenty (20) weeks, the twenty (20) weeks must all occur within a single calendar year. If any week includes both December 31 and January 1, the days through December 31 shall be deemed one (1) calendar week and the remaining days in such week shall be deemed another calendar week for qualification purposes. For example, when December 28, 29, 30, and 31, fall on Sunday, Monday, Tuesday, and Wednesday, respectively, these days shall be used as a week for qualification purposes for the calendar year in which they fall and the remaining days of that week up to and including Saturday, January 3, shall be considered a calendar week for qualification purposes in the calendar year in which they fall. (*Department of Workforce Development; Reg 201; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 876; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 34; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 85; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 75; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 157; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 61; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-1) to the Department of Workforce Development (646 IAC 3-4-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-2 Four or more employees in one day

Authority: IC 22-4.1-2-3

Affected: IC 22-4-7-2; IC 22-4-8-2; IC 22-4.1

Sec. 2. Under IC 22-4-7-2(h) and IC 22-4-8-2(j), in determining whether or not an employing unit has had four (4) or more individuals performing services for it in one (1) day, it is not necessary that the four (4) or more individuals be employed at the same moment of time for any particular length of time. It is sufficient if the total number of individuals employed, or for whom liability for wages is incurred, during the twenty-four (24) hours of a day is four (4) or more, regardless of the period of service during that day. For example, X corporation employs two (2) individuals from 9 a.m. until 5 p.m. The corporation employs two (2) other individuals from 7 p.m. until 10 p.m. X corporation has had four (4) individuals performing services for it within the meaning of IC 22-4-7-2(h). (*Department of Workforce Development; Reg 202; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 877; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 35; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 86; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 158; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1914; readopted filed Aug 31, 2001, 11:25*

a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-2) to the Department of Workforce Development (646 IAC 3-4-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-3 Multiple employers

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Employees of Two or More Employers. Where an individual is engaged in employment subject to the law by two or more employers concurrently, such individual shall be deemed an employee of each such employer for all purposes of the law.

Example: A works for X in the morning and for Y in the evening. A is counted as an employee of both X and Y and each employer must contribute upon the wages paid by him to A.

(Department of Workforce Development; Reg 203; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 877; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-3) to the Department of Workforce Development (646 IAC 3-4-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-4 Leased department

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Leased Department. The lessee of a leased department is considered the employer of individuals performing services for such leased department even though such individuals are hired and paid by the lessor, if the lessor hires and pays such individuals as agent of the lessee. (Department of Workforce Development; Reg 205; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 878; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-5) to the Department of Workforce Development (646 IAC 3-4-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-5 Property managers

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. Property Managers. Where a real estate agency manages property for various property owners under an agency contract whereby the agency hires and discharges individuals engaged in maintaining such property and whereby such individuals are paid from the income derived from the respective properties or other income of the owner, such individuals are considered to be in the employment of the respective property owners. (Department of Workforce Development; Reg 206; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 878; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-6) to the Department of Workforce Development (646 IAC 3-4-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-6 Mortgage or assignee of rent

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. Mortgagee or Assignee of Rent. Where property is in the hands of a mortgagee in possession, or an assignee of rent, or the trustee or receiver under the mortgage, or in foreclosure, such mortgagee, assignee, trustee or receiver, and not the owner of the property, is considered the employer of individuals performing services with respect to such property. (Department of Workforce Development; Reg 207; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 878; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-7) to the Department of Workforce Development (646 IAC 3-4-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-7 Continuing liability

Authority: IC 22-4.1-2-3

Affected: IC 22-4-7-1; IC 22-4.1

Sec. 7. Any employing unit qualifying under IC 22-4-7-1 remains subject to the law throughout the following calendar year, even though in such following year such employing unit does not have one (1) or more employees for twenty (20) weeks in the calendar year. For example, X employs one (1) individual throughout 1972 and qualifies as an employer subject to the law. During 1973, X employs only one (1) individual for a total of eighteen (18) weeks and did not pay wages of as much as one thousand five hundred dollars (\$1,500) in any calendar quarter. X must contribute on the wages paid to the one (1) employee in 1973 because he had one (1) employee for twenty (20) weeks in the preceding calendar year of 1972 and can terminate his status as an "employer" only as of January 1, 1974. (*Department of Workforce Development; Reg 208; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 878; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 36; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 38; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 86; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 76; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 158; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1914; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-8) to the Department of Workforce Development (646 IAC 3-4-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-8 Voluntary election to qualify as employer

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 8. (a) Any employing unit not otherwise subject to the law may, with the approval of the board, become subject to the law for not less than two (2) calendar years by filing its written application to the board. Such application must be filed not later than April 1 of the first calendar year with respect to which application is made.

(b) Where an employing unit has one (1) or more individuals performing services entirely outside of this state and contributions are not required by any other unemployment compensation law with respect to wages paid by the employing unit for services, the employing unit and such individuals may, upon the approval of the board, elect to consider services as employment subject to the Indiana law. (*Department of Workforce Development; Reg 209; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 879; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 36; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 86; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 158; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1914; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-9) to the Department of Workforce Development (646 IAC 3-4-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-9 Election to cover exempt services

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-2; IC 22-4-8-3; IC 22-4.1

Sec. 9. Any employing unit employing individuals exempt under IC 22-4-8-2(j)(3) or IC 22-4-8-3 may elect to consider the services of such individuals, in one (1) or more distinct establishments, as employment for all purposes of the law for at least two (2) calendar years. The application must be filed with the director not later than April 1 of the first calendar year with respect to which the application is made. (*Department of Workforce Development; Reg 210; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 879; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 36; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 76; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 159; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 62; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1914; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-10) to the Department of Workforce Development (646 IAC 3-4-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-10 Transfer of all or part of business; division of experience balance

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 10. (a) Each employer who disposes of:

- (1) all or part of his organization, trade, or business under IC 22-4-7-2(a) or IC 22-4-7-2(b); and
- (2) substantially all of the fixed assets used in the business disposed of under IC 22-4-7-2(a);

shall immediately notify the board in writing.

(b) The disposing employer and the acquiring employer shall thereafter promptly submit to the board, in writing, information obtained under subsection (a), including the completion and filing of prescribed forms, where necessary, as the board may request relating to the disposition and acquisition.

(c) Based upon information obtained under subsection (a) and any other relevant information in the board's records, the board shall determine whether the disposition and acquisition come within the meaning of either IC 22-4-7-2(a) or IC 22-4-7-2(b) and shall notify the disposing employer and the acquiring employer of its determination.

(d) In each case where the board determines there has been an acquisition under IC 22-4-7-2(a), the acquiring employer shall assume the position of the disposing employer with respect to all the resources and liabilities of such predecessor's experience account, except as provided under 640 IAC 1-1-7 [646 IAC 3-1-7].

(e) In each case where the board determines there has been an acquisition under IC 22-4-7-2(b), the acquiring employer shall assume a portion of the experience account of the disposer, if an application on prescribed form for such partial transfer properly signed and notarized by both the disposer and acquirer and containing all requested information, is received by the board, during the time period specified in IC 22-4-10-6(b). If no application is received, the acquiring employer shall receive no portion of the disposing employer's experience account and if not an employer prior to such acquisition shall pay contributions at the rate of two and seven-tenths percent (2.7%) until a higher or lower rate is established under IC 22-4-11-2 and IC 22-4-11-3.

(f) If an application and mutual agreement are received within the prescribed time, the experience balance and other factors shall be divided in the following manner:

(1) The board shall determine ratios (hereinafter called the "transfer percentages"). These transfer percentages shall be obtained by determining the ratios that the wages paid in connection with the portion of the business retained and the wages paid in connection with the portion of the business disposed of are to the total wages paid by the disposer during either of the following periods:

(A) The three (3) full fiscal years ending on June 30 immediately preceding the disposition date and the period from the end of these three (3) periods to the date of disposition.

(B) Such lesser period as the disposer has been an employer.

(2) In all cases of a partial transfer, the original experience account of the disposer will be voided and a new experience account will be assigned to the disposer. If the acquiring employer was not an employer prior to the acquisition, it shall be assigned an experience account; however, if the acquirer was an employer immediately prior to the acquisition date, it will retain its original experience account.

(3) The transfer percentages shall then be applied to the following:

(A) The wages paid by the disposing employer in each of the last three (3) twelve (12) month periods ending June 30 prior to the date of the disposition, or such lesser period as the disposer has been an employer.

(B) The wages paid by the disposing employer after the end of three (3) twelve (12) month periods and prior to the date of acquisition.

(C) The credit or deficit balance in the disposing employer's experience account as of the disposition date and the results transferred to the disposer's experience account and the acquirer's experience account, respectively.

Payrolls and experience balance of the disposing employer shall be transferred from the original experience account of the disposing employer and allocated to the separate experience accounts of the disposing employer and the acquiring employer, in accordance with the respective transfer percentage of each.

(4) All benefits chargeable to the disposer's original experience account subsequent to the disposition date shall be charged to the disposer's new experience account and the acquirer's experience account in accordance with the transfer percentages. Annual rates of contribution for the disposing employer and the acquiring employer shall be based on the adjusted employment experience of each employer as of the regular computation date for subsequent years.

(5) Any written determination made by the board, or by its agent, shall become conclusive and binding upon both the disposing and acquiring employer unless within fifteen (15) days, commencing with the day following the day upon which the initial determination is mailed to the employing unit, one (1) or both of the employers file a protest in writing to the determination, setting forth the grounds and reasons. The protest of the employer shall be heard and determined under IC 22-

4-32-1 through IC 22-4-32-15. In any case, both the disposing employer and the acquiring employer shall be made parties to the hearing before the liability referee and shall be entitled to receive copies of all pleadings and the decision.

(Department of Workforce Development; Reg 212; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 143; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 212; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 76; filed Aug 19, 1971, 3:30 p.m.: Rules and Regs. 1972, p. 33; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 173; filed Nov 25, 1975, 3:05 p.m.: Rules and Regs. 1976, p. 104; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 62; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1915; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-12) to the Department of Workforce Development (646 IAC 3-4-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 5. Qualifying as an Employee

646 IAC 3-5-1 Corporate officers and directors

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) An officer of a corporation who receives remuneration for his services as a corporate officer from a corporation is in employment during the entire term of his office, and such remuneration shall be considered as wages.

(b) A director of a corporation, as such, is not considered in employment, and fees paid for attendance at meetings of such board of directors shall not be deemed wages.

(c) A member of a board of directors is in employment, however, if he performs services for remuneration for the corporation other than those required by attendance at, and participation in, the meetings of the board of directors. *(Department of Workforce Development; Reg 301; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 880; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 36; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 38; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 159; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1916; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-1) to the Department of Workforce Development (646 IAC 3-5-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-5-2 Caddies

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Caddies. A caddy who performs services for a member or guest of a golf club is not in the employment of the club even though his fees are paid directly or indirectly by the club. *(Department of Workforce Development; Reg 304; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 881; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-3) to the Department of Workforce Development (646 IAC 3-5-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-5-3 Truckers and draymen

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Employee and His Equipment. Where an employing unit contracts with a trucker or drayman for the transportation or delivery of its merchandise other than on an hourly, salary or commission basis, and such trucker or drayman furnishes his own equipment and is the master of his own time and effort, the services so performed are not considered employment.

However, if an employing unit employs such an individual and exercises sufficient control over him to constitute such individual an employee, and compensates him in amounts including wages and rentals for the equipment, the reasonable rental value of the equipment may be determined and deducted for contribution purposes in cases where no agreement has been made for the allocation of any portion of such payments as rental for equipment.

Example: A is a construction contractor and hires B with his dump truck to haul gravel under the supervision of A's foreman.

A pays B \$10 per day for the use of such truck and for B's services. The reasonable rental value of the truck may be deducted and contributions paid only on remuneration for the personal services of B.

(Department of Workforce Development; Reg 306; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 881; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-5) to the Department of Workforce Development (646 IAC 3-5-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-5-4 Factory demonstrators

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Factory Demonstrators in Stores. Demonstrators who are placed by a manufacturer in department and specialty stores to aid in the sale of the specialized products of such manufacturer, who are engaged by the manufacturer, who are paid directly or indirectly by the manufacturer, and who work under the direction of the manufacturer, although this direction may be delegated to the retailer, are in the employment of the manufacturer. If the retailer, not acting as an agent for the manufacturer, engages the demonstrator, and the demonstrator works under the direction of the retailer and receives his remuneration directly from the retailer, the retailer is the employer. If the wages are paid in part by the manufacturer and in part by the retailer, the demonstrator is in the employment of both manufacturer and retailer. Each is required to pay contributions on that part of the remuneration which he pays; provided, that one or both, as the case may be, are employers under the law. *(Department of Workforce Development; Reg 309; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 882; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-8) to the Department of Workforce Development (646 IAC 3-5-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 6. Employment and Residence; State Banks; Minors; Extra Workers; Church Employment; Governmental Entity Defined; Crew Leader Defined

646 IAC 3-6-1 Location of employment

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) Wages paid by an employer to an individual who performs all of his services in Indiana are subject to contribution in this state even though the individual lives in another state.

(b) In cases where an individual performs services both within and without this state and contributions are not required in the other state, the employer should submit to the department for determination all the facts surrounding that employment. *(Department of Workforce Development; Reg 401; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 883; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 37; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1916; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-1) to the Department of Workforce Development (646 IAC 3-6-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-6-2 Reciprocal agreements

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-1; IC 22-4-22; IC 22-4.1

Sec. 2. (a) In accordance with reciprocal agreements entered under IC 22-4-22-1 through IC 22-4-22-4, coverage and allocation to certain states of services and wages paid for such services, performed both in Indiana and one (1) or more other states, shall be deemed employment and wages in the state as provided in those agreements so long as they remain in force.

(b) If services are performed both in Indiana and in one (1) or more other states with which no reciprocal agreement exists relating to the allocation of services and wages, and the services are not localized in any state, then contributions will be required on wages for services performed in Indiana, if those services constitute employment within the meaning of IC 22-4-8-1 and if contributions are not required and paid in another state. *(Department of Workforce Development; Reg 402; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 883; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 37; filed Jul 13, 1972, 11:00 a.m.:*

Rules and Regs. 1973, p. 159; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203)
NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-2) to the Department of Workforce Development (646 IAC 3-6-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-6-3 Child or spouse employed in family business

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) A minor child who performs services for a partnership or corporation controlled by the parents of such child is considered in the employment of the partnership or corporation and not in the employment of his or her parents, but such employment is excluded if the firm is a partnership and the parents of the child are the sole owners and members.

(b) Services performed for an employing unit by a child or spouse of the owner do not constitute employment, but if the employing unit is a partnership an exempt relationship must exist with each member before such services shall be deemed as excluded services. (*Department of Workforce Development; Reg 404; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 884; filed Aug 8, 1979, 1:17 p.m.: 2 IR 1221; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-4) to the Department of Workforce Development (646 IAC 3-6-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-6-4 Extra workers for Saturdays or rush periods

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Extra workers employed on Saturdays or during rush periods are deemed to be in employment. (*Department of Workforce Development; Reg 405; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 884; filed Jul 22, 1953, 11:00 am: Rules and Regs. 1954, p. 39; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-5) to the Department of Workforce Development (646 IAC 3-6-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-6-5 Churches and religious organizations

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-2; IC 22-4.1

Sec. 5. (a) As used in this rule, the following definitions under IC 22-4-8-2(j)(3)(A) apply:

(1) "Church" is used in its limited sense and is synonymous with an individual house of worship maintained by a particular congregation.

(2) "Convention" and "association" refer to formal and informal groups of churches, clergy, or laymen, whether of a continuing nature or meeting periodically, whose purpose is primarily concerned with religious and denominational matters of the group or groups represented. However, the exclusion does not apply to service performed for a facility or organization which may be religious in orientation unless it is operated primarily for religious purposes and is operated by a church (or a convention or association of churches). Thus, the service of a janitor of a church is excluded, but the service of a janitor for a separately operated college, day care center, public book store, although they may be church related, is covered.

(b) Service for a college devoted primarily to the preparation of students for the ministry is exempt, as is the service for a novitiate or a house of study training candidates to become members of a religious order. On the other hand, a church related charitable organization, such as an orphanage or home for the aged, is not considered to be operated primarily for religious purposes.

(c) Under IC 22-4-8-2(j)(3)(B), the exclusion of service performed by ministers in the exercise of their ministry and by members of a religious order in performing the duties required by such order applies only when such service is performed for nonprofit organizations required to be covered by the state law.

(d) A minister is "ordained, commissioned, or licensed" if he has been vested with ministerial status in accordance with the procedure followed by the particular church denomination. However, he does not have to be connected with a congregation. Ministerial authority continues until revoked by the church.

(e) "Exercise of the ministry" includes the following:

(1) The conduct of religious worship and the ministrations of sacerdotal functions.

(2) Service performed in the control, conduct, and maintenance of:

(A) a religious organization under the authority of a religious body constituting a church or church denomination; or

(B) an organization operated as an integral agency of such a religious organization or of a church or church denomination.

(3) Service performed for any organization under an assignment or designation by a church (not including cases in which a church merely helps a minister by recommending him for a position involving nonministerial services for an organization not connected with the church).

(4) Missionary service or administrative work in the employ of a missionary organization.

(f) "Control, conduct, and maintenance" of an organization does not include services such as operating an elevator or being a janitor, but refers to services performed in the directing, management, or promotion of the activities of the organization.

(g) As established in subsection (e), service of a clergyman as a chaplain in an orphanage or in a retirement home is excluded since his service is in the exercise of his ministry as is the service of members of a teaching or nursing order who are engaged in teaching or nursing. In the case of a member of a religious order, the criterion is whether the order requires the performance of such service. (*Department of Workforce Development; PT II, Reg 406; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 160; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-6) to the Department of Workforce Development (646 IAC 3-6-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 7. Exempt Employers and Employees

646 IAC 3-7-1 Agricultural labor; exempt services

Authority: IC 22-4.1-2-3

Affected: IC 22-4-7-2; IC 22-4.1

Sec. 1. (a) Agricultural labor does not include services performed in connection with forestry, lumbering, or landscaping.

(b) Greenhouses and other similar structures used primarily for other purposes, for example, display, storage, and fabrication of wreaths, corsages, and bouquets, do not constitute farms.

(c) Services performed for the owner or tenant or operator of one (1) or more farms in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment are excepted as agricultural labor, provided the major part of such services is performed on a farm. Such services may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled and semiskilled workers which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged. Since such services must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to services performed for a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) Exempt services do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the excepted services must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivery to storage or to market, or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities, except to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm.

(e) Subsequent to December 31, 1977, the exemption of agricultural employment does not apply to those employers meeting the requirements of IC 22-4-7-2(e). (*Department of Workforce Development; Reg 505; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 887; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 161; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 65; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1918; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-2) to the Department of Workforce Development (646 IAC 3-7-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-2 Domestic service; exempt services

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. (a) Services of a household nature performed by an individual in or about the private home of the person by whom he is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed are included within the term "domestic service".

(b) As used in this section, a private home is the fixed place of abode of an individual or family.

(c) As used in this section, a local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

(d) If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the services performed therein are not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purposes, the services performed therein are not within the exception.

(e) The services described in subsection (a) are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, or commercial offices of establishments.

(f) Services performed as a private secretary, even though performed in the employer's home, are not within the exception. (*Department of Workforce Development; Reg 506; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 889; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 66; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1919; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-3) to the Department of Workforce Development (646 IAC 3-7-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-3 Services not in the course of a trade or business

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 3. "Not in the course of the employing unit's trade or business" includes service that does not promote or advance the trade or business of the employer. Service which does not promote or advance the employing unit's trade or business is excepted from employment, unless the cash remuneration paid for such service performed by an individual in a calendar quarter is fifty dollars (\$50) or more and the individual is employed in the performance of such service during some portion of a day, for at least twenty-four (24) days in such calendar quarter, or in the preceding calendar quarter. The following are examples of such service:

(1) A's business is that of operating a sawmill. He employs B, a carpenter, at an hourly wage to repair his home. B works irregularly and spends the greater part of two (2) days in completing the work. Since B's labor is casual and is not in the course of A's trade or business, such services are excepted, and B is not considered in "employment" as defined under IC 22-4.

(2) A's business is that of operating a sawmill. He employs B, a carpenter, to repair his home. During the month of March, B worked two (2) hours on each of twenty-seven (27) days, earning one hundred eight dollars (\$108) at an hourly wage of two dollars (\$2). B completed the repairs after working two (2) hours on each of fourteen (14) days during the month of April, earning fifty-six dollars (\$56). B's services, although not in the course of A's business, constituted employment during the first quarter because he worked on each of twenty-seven (27) days and earned one hundred eight dollars (\$108). His services during the second quarter also constituted employment, even though he worked only fourteen (14) days, because he earned fifty-six dollars (\$56) and was in employment during the preceding quarter. Casual labor, that is, labor which is occasional, incidental, or irregular, but which is in the course of the employer's trade or business, does not come within the exception stated in subdivision (1).

(3) C's business is that of operating a sawmill. He employs D for two (2) hours, at an hourly wage, to remove sawdust from his mill. D's labor is casual since it is occasional, incidental, or irregular, but it is in the course of C's trade or business and is not excepted, and D is considered in "employment" as defined under IC 22-4.

(4) E is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks may be casual, they are in the course of the employer's trade or business and therefore are not excepted, and such additional clerks are considered in "employment" as defined under IC 22-4. Casual labor performed for a corporation does not come within this exception.

(Department of Workforce Development; Reg 507; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 890; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 128; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 39; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 78; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1919; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-4) to the Department of Workforce Development (646 IAC 3-7-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-4 Railroad employees

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Services Performed for Railroad Employers. Services performed with respect to which unemployment benefits are payable under the Railroad Unemployment Insurance Act shall not be deemed employment within the meaning of the law. *(Department of Workforce Development; Reg 508; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 891; filed Sep 25, 1969, 2:50 pm: Rules and Regs. 1970, p. 79; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203)* NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-5) to the Department of Workforce Development (646 IAC 3-7-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-5 Maritime service; definitions

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. Maritime Service. The word, "vessel," includes every description of watercraft or other contrivance used as a means of transportation on water.

The term, "American vessel," means (a) any vessel documented or numbered under the laws of the United States and (b) any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or any state.

Dredges used for navigation and transportation in deepening and removing obstructions from channels, rivers, or other waterways, are "vessels."

The expression, "officer or member of the crew," includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel, and includes, for example, the services rendered by the master, mate, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, deck hands, porters, and chambermaids, and by fishermen on fishing vessels. *(Department of Workforce Development; Reg 509; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 891; filed Mar 31, 1948, 9:55 am: Rules and Regs. 1949, p. 39; filed Jul 13, 1972, 11:00 am: Rules and Regs. 1973, p. 162; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203)* NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-6) to the Department of Workforce Development (646 IAC 3-7-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-6 Federal income tax exempt organizations; exempt services

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-3; IC 22-4.1

Sec. 6. In regard to services described as exempt under IC 22-4-8-3(h), the type of service performed and the place where the services are performed are immaterial; the statutory tests are the character of the organization in whose employ the services are performed and the amount of the remuneration for service performed by the individual in the calendar quarter. *(Department of Workforce Development; Reg 510; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 892; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 39; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 130; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 86; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 79; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 163; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1920; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203)* NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-7) to the Department of Workforce Development (646 IAC 3-7-6) by

P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-7 Insurance agents and solicitors

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. Insurance Agents and Solicitors. Services performed by an individual as an insurance agent or insurance solicitor are excepted, provided such services are performed solely for commissions.

If all or any part of the remuneration of an individual for services performed as an insurance agent or insurance solicitor is a salary, none of his services are excepted and his total remuneration (for example, salary, or salary and commissions) is included for the purposes of computing contributions. (*Department of Workforce Development; Reg 516; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 897; filed Mar 31, 1948, 9:55 am: Rules and Regs. 1949, p. 43; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-10) to the Department of Workforce Development (646 IAC 3-7-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-8 Newspaper delivery

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 8. (a) The services performed by an individual under the age of eighteen (18) years of age in making house-to-house delivery of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted.

(b) Individuals who buy their papers from the publisher and resell them to the public are not in the employment of the publisher. (*Department of Workforce Development; Reg 517; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 897; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 43; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1920; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-11) to the Department of Workforce Development (646 IAC 3-7-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-9 Partially exempt services

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-3; IC 22-4.1

Sec. 9. (a) In determining coverage or exemption of services under IC 22-4-8-3(s), a "pay period" is the period, of not more than thirty-one (31) consecutive calendar days, for which a payment of remuneration is ordinarily made to the individual by the employing unit. If the periods for which payments of remuneration are made to the individual by an employing unit are of uniform duration, each period constitutes a pay period. If, however, the periods occasionally vary in duration, the pay period is the period for which a payment of remuneration is ordinarily made to the individual by an employing unit, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if an employing unit ordinarily pays a particular individual for each calendar week at the end of the week, but the individual receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the pay period is still the calendar week; or if, instead, that individual is sent on a trip by the employing unit and receives, at the end of the third week, a single remuneration payment for three (3) weeks' services, the pay period is still the calendar week.

(b) If there is only one (1) period, and such period does not exceed thirty-one (31) consecutive calendar days, for which a payment of remuneration is made to the individual by the employing unit, such period is deemed to be a pay period.

(c) This rule does not apply:

(1) with respect to any services performed by the individual for an employing unit if the periods for which the employing unit makes payments of remuneration to the individual vary to the extent that there is no period for which a payment of remuneration is ordinarily made to the individual;

(2) with respect to any services performed by the individual for the employing unit if the period for which a payment of remuneration is ordinarily made to the individual by the employing unit exceeds thirty-one (31) consecutive calendar days;

or

(3) with respect to any service performed by the individual for the employing unit during a pay period if any of such service is excepted under IC 22-4-8-3(b).

(d) If, during any period for which an employing unit makes a payment of remuneration to an individual, only a portion of the individual's services constitutes employment, but this rule is not applicable, contributions are due with respect to such services as constitute employment. (*Department of Workforce Development; Reg 518; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 898; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 44; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 164; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1921; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-12) to the Department of Workforce Development (646 IAC 3-7-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-10 Institutionalized persons

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-3; IC 22-4.1

Sec. 10. Under IC 22-4-8-3(t), if an inmate of a governmental or nonprofit custodial or penal institution performs services for a nongovernmental, for-profit employer, the service performed by the inmate would be considered as services performed for such employer and would not be excluded. (*Department of Workforce Development; Reg 519; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 67; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1922; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-13) to the Department of Workforce Development (646 IAC 3-7-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 8. Wages

646 IAC 3-8-1 Taxable wage base

Authority: IC 22-4.1-2-3

Affected: IC 22-4-4-2; IC 22-4-7-2; IC 22-4.1

Sec. 1. (a) When an employing unit qualifies under IC 22-4-7-2(a) or IC 22-4-7-2(b), the remuneration paid by the predecessor in such calendar year is combined with the remuneration paid by the successor in that same calendar year in determining when an employee has reached the taxable wage base limit.

(b) The combining of the remuneration paid to an individual by separate employers, in establishing the taxable wage base limitation, applies only in successorship cases.

(c) Under IC 22-4-4-2, remuneration paid an employee in another state is considered in determining the taxable wage base limitation for a calendar year, if wages are paid to the same employee by the same employer in this state during a calendar year. (*Department of Workforce Development; Reg 600; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 900; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 44; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 134; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 90; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 43; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 82; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 165; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 67; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1922; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-1) to the Department of Workforce Development (646 IAC 3-8-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-2 Certain exclusions from wage calculations

Authority: IC 22-4.1-2-3

Affected: IC 22-4-4-2; IC 22-4.1

Sec. 2. (a) IC 22-4-4-2(b)(4) excludes from the definition of wages amounts paid by an employer to an employee (in absence of a plan or system) for sickness or accident disability, or medical or hospitalization expense, after the expiration of six (6) calendar months following the last calendar month in which the employee performed services for the employer. However, in the absence of a plan or system by the employer to provide for such payments, sick or accident pay will be deemed wages for the first six (6) months

following the last month of employment.

(b) IC 22-4-4-2(b)(5) excludes from the definition of wages certain payments from or into a trust exempt from tax under Section 401(a) of the federal Internal Revenue Code or under or to an annuity plan which meets the requirements of Sections 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the federal Internal Revenue Code. Under this section, a payment made by an employer into a trust or annuity plan is excluded from wages at the time of such payment if the trust is tax exempt or the annuity plan meets the requirements of Section 401(a) of the federal Internal Revenue Code at such time. A payment to, or on behalf of, an employee from a trust or under an annuity plan is also excluded from wages if the trust is tax exempt or the annuity plan meets the requirements of Section 401(a) of the federal Internal Revenue Code at the time of the payment to, or on behalf of, the employee. Payments of this type made to, or on behalf of, a beneficiary of an employee are also excluded from wages. A payment made to an employee of a tax exempt trust as remuneration for services rendered as such employee and not as a beneficiary of the trust is not within this exclusion. (*Department of Workforce Development; Reg 601; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 903; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 137; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 83; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 167; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-2) to the Department of Workforce Development (646 IAC 3-8-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-3 Vacation or leave of absence pay

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Remuneration paid by an employer to an employee for vacation periods or leave of absence in the regular course of employment is wages, and such period of vacation with pay or leave with pay is deemed employment since the employment relation has not been terminated. (*Department of Workforce Development; Reg 602; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 904; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-3) to the Department of Workforce Development (646 IAC 3-8-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-4 Wages in lieu of notice or termination allowances

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Wages in lieu of notice or termination allowances include amounts paid by an employer to an employee at the time the employee is separated from employment with the employer. All such payments are deemed to be wages subject to contribution. (*Department of Workforce Development; Reg 603; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 904; filed Jun 15, 1951, 11:00 am: Rules and Regs. 1952, p. 138; filed Feb 11, 1958, 2:00 pm: Rules and Regs. 1959, p. 75; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-4) to the Department of Workforce Development (646 IAC 3-8-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-5 "Idle time" payments

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. Idle Time. Where an employer guarantees to his employees a minimum number of hours of employment per week and makes payments to them for "idle time" when they do not render services for the minimum number of hours, the payment for such idle time constitutes wages subject to contribution. (*Department of Workforce Development; Reg 604; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 904; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-5) to the Department of Workforce Development (646 IAC 3-8-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-6 Disability awards

Authority: IC 22-4.1-2-3

Affected: IC 22-3; IC 22-4.1

Sec. 6. Awards for disability granted by the Indiana worker's compensation board under IC 22-3-2 through IC 22-3-6 and amendments thereto, and likewise payments made to employees under IC 22-3-7, and amendments, are not wages. (*Department of Workforce Development; Reg 605; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 905; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-6) to the Department of Workforce Development (646 IAC 3-8-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-7 Pensions excluded

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. Pensions Are Not Wages. Pensions paid by the employer to retired employees who perform no services for such employer are not wages. (*Department of Workforce Development; Reg 606; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 905; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-7) to the Department of Workforce Development (646 IAC 3-8-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-8 Employee discounts on purchases

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 8. Discounts on Purchases. Discounts allowed employees on the purchase of goods from the employer are not wages if the purchase is optional with the employee and the discounts do not constitute regular or systematic remuneration for services rendered. (*Department of Workforce Development; Reg 607; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 905; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-8) to the Department of Workforce Development (646 IAC 3-8-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-9 Tips and gratuities

Authority: IC 22-4.1-2-3

Affected: IC 22-4-4-2; IC 22-4.1

Sec. 9. Tips and gratuities received by an employee from persons other than his employer and not accounted for to the employer are not wages; however, the amount of tips or gratuities accounted for by the employee to the employer by written statement as required by Section 6053 of the Internal Revenue Code when such tips are in excess of \$20.00 per month, are wages within the meaning of IC 22-4-4-2.

Where an employer does not permit tipping of employees and in lieu thereof adds a certain per cent to the charges made to his patrons and disburses the added amounts to his employees, the sums so disbursed are wages and not tips. (*Department of Workforce Development; Reg 608; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 905; filed Apr 19, 1966, 8:55 am: Rules and Regs. 1967, p. 28; filed Mar 10, 1986, 1:30 pm: 9 IR 1969; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-9) to the Department of Workforce Development (646 IAC 3-8-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-10 Prizes and bonuses

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 10. (a) A prize or bonus given by an employer to an employee in cash is wages. When given in any medium other than

cash, such prize or bonus will be considered wages unless it is shown that such is not, in fact, remuneration for employment.

(b) A bonus or prize paid in cash or in any other medium, whether or not paid as a result of contractual obligation, shall be reported as wages for the week in which the payment of such bonus or prize is due or paid. (*Department of Workforce Development; Reg 609; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 905; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 168; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 68; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1924; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-10) to the Department of Workforce Development (646 IAC 3-8-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-11 Promissory notes

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 11. Notes Treated as Cash Wages. Where an employee accepts a promissory note in lieu of wages, the face amount of the note at the time it is delivered to and accepted by the employee is considered the amount of wages subject to contribution, and such wages are considered paid at the time of such delivery and acceptance. (*Department of Workforce Development; Reg 611; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-12) to the Department of Workforce Development (646 IAC 3-8-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-12 Payments to partners

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 12. Payments to Partners. Payments made by a partnership to a partner are not wages. A partner is an employer and is not the employee of the partnership. (*Department of Workforce Development; Reg 612; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-13) to the Department of Workforce Development (646 IAC 3-8-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-13 Federal insurance contributions tax

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 13. Where an employer pays the employee's tax levied by the Federal Insurance Contributions Act and does not deduct the same from wages of the employee, the payment of such tax by the employer is not additional wages payable to the employee. (*Department of Workforce Development; Reg 615; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; filed Apr 10, 1956, 3:10 pm: Rules and Regs. 1957, p. 91; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-16) to the Department of Workforce Development (646 IAC 3-8-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-14 Traveling expenses; commission drawing accounts

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 14. (a) Amounts advanced or reimbursed to employees for traveling expenses, as such, which are expenses of the employer incurred by the employee incident to his position and the business of his employer, do not constitute wages to the extent of the amount actually expended.

(b) Where an employee is allowed a drawing account against which are credited his earned commissions, and the commissions earned do not equal the amounts withdrawn, and the employee is required to account to the employer for amounts overdrawn, the

commissions earned, and not the amounts overdrawn, are considered wages subject to contribution. However, if the employee is not required to account to the employer for such excess payments, then all amounts so advanced to the employee are considered wages.

(c) In determining contributions due for a quarter, each employee is to be considered individually, and, if the expenses of an employee exceed his earnings, the excess may not be credited against the contribution liability incurred by the employer by reason of wages payable to other employees of that employer.

(d) Where an employee earns wages in excess of expenses in one (1) calendar quarter, contributions are due and payable thereon, and, if that employee in a subsequent calendar quarter incurs expenses in excess of his wages, the excess shall not be taken as a credit against contributions due for a previous calendar quarter, or contributions in future months or calendar quarters, respectively. (*Department of Workforce Development; Reg 616; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 907; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1924; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-17) to the Department of Workforce Development (646 IAC 3-8-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-15 Back pay awards by national labor relations board

Authority: IC 22-4.1-2-3
 Affected: IC 22-4.1

Sec. 15. (a) Awards of back pay to individuals by the national labor relations board, and are reportable as wages for the quarter covered by the award.

(b) Payments of additional wages made pursuant to terms of the fair labor standards act are wages, and are reportable as wages during the quarter covered by the payment. (*Department of Workforce Development; Reg 617; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 908; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 84; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 168; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 68; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1925; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-18) to the Department of Workforce Development (646 IAC 3-8-15) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 9. Wages Subject to Contributions; Experience Ratings; Reimbursable Employers; Governmental Employers

646 IAC 3-9-1 Wages subject to contribution; constructive payment

Authority: IC 22-4.1-2-3
 Affected: IC 22-4-10-6; IC 22-4-10-7; IC 22-4.1

Sec. 1. (a) Contributions are payable upon the total wages paid within a calendar year for employment performed, but the term "total wages" means only the first seven thousand dollars (\$7,000) paid within a calendar year to an individual by a single employer or his predecessor within such calendar year and irrespective of the year within which the services are performed. As used in this subsection, "annual payroll" means the total wages, subject to such seven thousand dollars (\$7,000) limitation, paid by an employer during the twelve (12) month period ending on the computation date in any year, including wages paid by any other employer whose account has been assumed by such employer under IC 22-4-10-6 and IC 22-4-10-7.

(b) Wages shall be deemed paid when either actually or constructively paid. Wages shall be deemed constructively paid when they are credited to the account of or set apart for an individual who has performed services so that they may be drawn upon at any time by him, although not then actually reduced to his possession. To constitute payment in such cases, the wages must be credited to or set apart for the employee without any substantial limitation as to the time or manner of payment or condition upon which payment is to be made and must be made available to him so they may be drawn at any time and their payment brought within his control and disposition. (*Department of Workforce Development; Reg 701; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 909; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 139; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 75; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 84; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 168; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 68; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1925; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment

Insurance Board (640 IAC 1-8-1) to the Department of Workforce Development (646 IAC 3-9-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-2 Commissions on installment payments

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Where commissions are paid to salesmen each time a purchaser makes payment under an installment contract, the commissions shall be considered wages paid at the time they are credited to the salesman on the books of the employer. (*Department of Workforce Development; Reg 702; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 910; filed Aug 8, 1979, 1:17 p.m.: 2 IR 1221; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1925; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-2) to the Department of Workforce Development (646 IAC 3-9-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-3 Voluntary payments to secure lower contribution rate

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-5; IC 22-4-11-2; IC 22-4.1

Sec. 3. (a) Voluntary payments are added to the balance shown by the experience account and included in the computation for merit rate purposes, provided the employer has met the requirements for a merit rate under IC 22-4-11-2(c) and the voluntary payments are made within thirty (30) days following the date of the department's notice that such payments may be made.

(b) Where a recomputation of a successor's rate of contribution is necessary, a voluntary payment can be made to secure a lower rate provided that voluntary payment is made within the periods of time designated by IC 22-4-10-5. (*Department of Workforce Development; Reg 703; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 910; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 48; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 139; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 40; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 91; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 75; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 44; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 85; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 169; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1926; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-3) to the Department of Workforce Development (646 IAC 3-9-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-4 Successor employers; contribution rate

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 4. (a) "Successor employer", includes the following:

(1) An employing unit, not subject to contribution under IC 22-4 prior to its acquisition of all or a distinct and segregable portion of the organization, trade, or business of a subject employer.

(2) An employer subject to IC 22-4 prior to his acquisition of all or a distinct and segregable portion of the organization, trade, or business of another subject employer.

(b) The rate of contribution for a successor employer for the year following that in which the acquisition occurred shall be computed or recomputed, on the basis of his experience, if any, combined with all or part of that of his predecessor, if he has acquired all or a part of the predecessor's experience account, as of the regular date of computation for such year. The rate of contribution of the predecessor employer for such following year shall be computed or recomputed as of the regular date of computation for such year on the basis of his remaining experience, if any. (*Department of Workforce Development; Reg 706; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 915; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 52; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 142; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 215; filed Aug 19, 1971, 3:30 p.m.: Rules and Regs. 1972, p. 33; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 174; filed Nov 25, 1975, 3:05 p.m.: Rules and Regs. 1976, p. 106; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1926; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-5) to the Department of Workforce

Development (646 IAC 3-9-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-5 Reimbursable employers; payments in lieu of contributions

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-1; IC 22-4.1

Sec. 5. Any employer who makes an election to reimburse benefit charges under IC 22-4-10-1(a)(1) and IC 22-4-10-1(a)(2) will continue to be liable for payments in lieu of contributions until it files a written request to terminate its election. If said election is approved, the employer will continue to be liable for payments of benefits which applied to an employee's base period falling in quarters in which the employer's election to reimburse was in effect. (*Department of Workforce Development; Reg 708; filed Nov 26, 1974, 9:45 a.m.: Rules and Regs. 1975, p. 310; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1926; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-6) to the Department of Workforce Development (646 IAC 3-9-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-6 Election of payments in lieu of contributions; time for filing

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-1; IC 22-4.1

Sec. 6. Under IC 22-4-10-1(a)(2), the thirty-one (31) days following the date upon which such entity qualifies as an employer under this article means thirty-one (31) days following the date that such entity has notified the department or has been notified by the department that such entity has qualified as an employer under IC 22-4. (*Department of Workforce Development; Reg 709; filed Jul 13, 1977, 9:15 a.m.: Rules and Regs. 1978, p. 298; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1927; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-7) to the Department of Workforce Development (646 IAC 3-9-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-7 Governmental contribution rates

Authority: IC 22-4.1-2-3

Affected: IC 22-4-11-2; IC 22-4.1

Sec. 7. Under IC 22-4-11-2(d), if the employer is the state or a political subdivision of the state, or any instrumentality of a state or a political subdivision, such employer will pay contributions at the rate of one percent (1%) until subject to this article throughout thirty-six (36) consecutive calendar months immediately preceding the computation date. In the event a city or town had previously been a covered employer to the extent of its municipal utilities, they will pay contributions at their computed rate, but such rate will not exceed one percent (1%). If, by statute, a municipal utility is set apart as a separate political subdivision, such utility will retain their experience account and assigned rate, and IC 22-4-11-2(d) will apply to the new account assigned to the city or town for the purpose of reporting nonutility employment. (*Department of Workforce Development; Reg 710; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 70; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1927; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-8) to the Department of Workforce Development (646 IAC 3-9-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 10. Employee Benefits; Payroll and Employment Records; Employer Responsibility; Employment Security Act

646 IAC 3-10-1 Payroll and employment records

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) Each employing unit shall keep accurate payroll and employment records which must show the following:

- (1) Name and Social Security number of each employee.
- (2) Cash remuneration paid to each employee per calendar quarter.
- (3) Remuneration other than cash paid to each employee per calendar quarter.

- (4) Date each employee last worked and date to which wages were last payable.
- (5) Reason for termination.
- (6) Reason for lost time in any week during which any employee earns less than the maximum weekly benefit amount established by law.
- (7) Remuneration earned by each employee each calendar week.
- (8) Whether each week worked by each employee is in fact a week of less than full-time work.
- (9) The base of operations of each employee.

(b) The records shall be preserved for a period of at least four (4) calendar years in addition to the current year. (*Department of Workforce Development; Reg 801; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 918; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 56; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 41; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 92; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 32; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 32; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 86; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 20; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 288; filed Sep 23, 1977, 1:20 p.m.: Rules and Regs. 1978, p. 301; filed Dec 11, 1980, 9:50 a.m.: 4 IR 47; errata, 4 IR 205; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1927; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-1) to the Department of Workforce Development (646 IAC 3-10-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-2 Eligibility information reports; retroactive payment reports; notice of layoffs or labor disputes

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 2. (a) Every employer shall, upon request, furnish his employees and his former employees with information necessary for them to obtain their full rights and benefits under IC 22-4.

(b) To be considered a valid document in determining benefit rights of an individual, any informational report or protest directed by an employer to the department regarding an employee or former employee shall include the correct Social Security number of the individual.

(c) An eligibility information report, either on the form supplied by the department or any other document which supplies the required information, shall be submitted to the claim-holding local office within twenty (20) calendar days from the mailing of notice that a former employee has filed an initial or additional claim for unemployment compensation and he was separated from his employment under any of the following conditions:

- (1) To accept other employment.
- (2) To enter self-employment.
- (3) Because of the individual's physical condition.
- (4) Left work voluntarily without good cause in connection with the work.
- (5) Was discharged for just cause.
- (6) Was discharged for gross misconduct in connection with his work.

(d) An eligibility information report need not be submitted by an employer when an individual was separated from his employment because of no work available except where the individual, upon separation, or will receive subsequent to separation, any amount defined as deductible income under the provisions of IC 22-4-5-1, IC 22-4-5-2, or IC 22-4-15-4. If an eligibility information report is not received by the department, it will be found that the individual involved was separated because no work was available. However, a determination of eligibility will be issued in those cases where the claimant's statement of reason for separation raises an issue of eligibility.

(e) In those initial claims or reopened claims in which the employer has not responded within the time specified by IC 22-4-17-2, and in which an initial determination is required, the department may proceed to determine the validity of the claim in question upon the best information available and, for the purpose of the initial determination, it shall be conclusive with respect to any data which should otherwise have been submitted, and benefits paid and charged to the employer's experience or reimbursable account on the basis of such initial determination, in the absence of fraud, shall be deemed benefits properly paid and properly charged.

(f) When both the notice of the filing of an initial claim and the notice of benefit liability are mailed to an employer, the period during which the employer must furnish an eligibility information report shall run from the date the first of such notices was mailed.

(g) An eligibility information report should be submitted to the claim-holding office immediately if the individual refuses work

after the employing unit has received notice of the filing of a claim.

(h) It is the responsibility of the employer to inform his partially unemployed employees of any potential rights they may have for partial benefits. When an individual becomes partially unemployed, as established under section 9 of this rule, the employer shall furnish the employee an initial low wage notice if:

- (1) the employee has worked less than full time; and
- (2) the employee has earned less than the maximum weekly benefit amount established under IC 22-4-12-2.

The initial low wage notice must be furnished to the employee within ten (10) days after the end of the employee's normal pay period in which the ending date of the first week of partial unemployment falls. Only one (1) initial low wage notice need be provided during an employee's benefit year.

(i) After the employer has received notice from the department to file weekly low wage reports, the reports must be furnished to the employee for each week in which the employee earns less than his or her weekly benefit amount because of lack of work. The weekly low wage notice must be furnished to the employee within ten (10) days after the end of the employee's normal pay period in which the ending date of the week of partial unemployment falls. The employer must continue to provide the weekly low wage report until notified by the department to stop.

(j) If an employer fails to furnish the required information within ten (10) days, benefits may be paid to the employee based upon his certified statement.

(k) The low wage notice and report may be filed either on the form provided by the department or by any other written instrument that contains the necessary information.

(l) The employer is responsible for making reports to the department of any retroactive payments of deductible income. The report may be made on the form supplied by the department or by any other written instrument which contains the necessary information.

(m) When individuals are separated from employment by reason of a labor dispute, the employer shall report the dispute to the employment office serving the territory, together with information showing the approximate number of individuals involved. (*Department of Workforce Development; Reg 802; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 920; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 56; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 42; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 92; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 77; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 33; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 33; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 45; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 87; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 20; filed Jan 16, 1973, 3:00 p.m.: Rules and Regs. 1974, p. 106; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 288; filed Sep 23, 1977, 1:20 p.m.: Rules and Regs. 1978, p. 302; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1928; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-2) to the Department of Workforce Development (646 IAC 3-10-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-3 Registration for work; waiver of requirement

Authority: IC 22-4.1-2-3
 Affected: IC 22-4; IC 22-4.1

Sec. 3. Individuals permanently separated from their last employer must complete registration for work and filing of initial claim for benefits not later than during the week with respect to which he claims waiting period, except as otherwise provided in Regulation 804 and 809 [646 IAC 3-10-4 and 646 IAC 3-10-7]. Such initial registration of an applicant for benefits must be made in person at an employment office or special registration point; Provided, however, That the Director, in his discretion, may for a prescribed period accept by mail such initial registration for work and filing of either initial or continued claims for benefits; thereafter, registration must be made in person on the day of the week fixed by the representative of the Board. Registration for work and filing of initial or continued claims for benefits may be made at some other employment office or special registration point designated by the Director or his representative.

Provided, further, that the Director shall waive or postpone the requirement that a claimant register for work if he finds that compliance with such requirement would be oppressive or would be inconsistent with the purpose of this Act [IC 22-4] in the following circumstances:

- (1) Mass layoffs.
- (2) Temporary layoffs.

A claimant's active registration with a union hiring hall or placement facility shall constitute such individuals registration for work. (*Department of Workforce Development; Reg 803; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 923; filed Jul 22, 1953, 11:00 am: Rules and Regs. 1954, p. 44; filed Sep 25, 1969, 2:50 pm: Rules and Regs. 1970, p. 89; filed Feb 5, 1988, 1:15 pm: 11 IR 1786; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-3) to the Department of Workforce Development (646 IAC 3-10-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-4 Waiting period

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. (a) An individual shall be required to serve one (1) waiting period during his benefit period.

(b) The first week of total, part-total, or partial unemployment in an individual's benefit period will be the waiting period week if during that week the individual was otherwise eligible for benefits and his deductible income for that week was less than his weekly benefit amount. Thereafter, he must register on the day and in the manner fixed by the representative of the department.

(c) Except as otherwise provided under section 9 of this rule, where an individual is required to register at a special registration point and, being otherwise eligible, earns less than his weekly benefit amount in a week, exclusive of the sum of three dollars (\$3), or twenty percent (20%) of his weekly benefit amount rounded to the next highest dollar, earned from other than his base period employer, such week shall be counted as a waiting period week if for good cause shown the individual is unable to register on the prescribed day but does register during the following calendar week. In addition to the requirement that an individual must register for work during any week with respect to which he claims waiting period rights, such individual must, after completion of such week, report in person, or by mail if permission so to report by mail has been granted to the individual by the director, to the employment office or special registration point for the purpose of disclosing earnings, if any, and establishing his availability for work during such week. Such reporting must be made not later than during the week following the week claimed, and if permission to report by mail has been granted to such individual, then such report must be mailed not later than during the week following the week claimed; provided, that this requirement shall be waived by the director or a representative of the department upon a showing of good cause. (*Department of Workforce Development; Reg 804; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 923; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 60; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 44; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 80; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 90; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1930; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-4) to the Department of Workforce Development (646 IAC 3-10-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-5 Availability for work; weekly reporting

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. (a) No individual may receive waiting period credit or benefits for any week of total unemployment in which he is unable to work or unavailable for work in three (3) or more normal work days of such week.

(b) No individual may receive waiting period credit or benefits for any week of partial, part-total, or partial and part-total unemployment in which his deductible income equals or exceeds his weekly benefit amount reduced by one-third (1/3) of his weekly benefit amount for each of the normal work days in a week that the individual is unable to work or unavailable for work. When one-third (1/3) of the weekly benefit amount is not an even-dollar amount, it shall be raised to the next higher multiple of one dollar (\$1) for each day of unavailability.

(c) The normal work days of a totally or part-totally unemployed individual in a week shall include all days of the week except legal holidays. The normal work days of a partially unemployed individual in a week shall include those days of the week established by his employer as normal work days for that individual.

(d) No individual can establish his availability for work with respect to any week claimed unless he has made a personal report during that week at the local office, itinerant office, or special registration point at which his claim is on file; provided, that an individual can establish his availability for work with respect to any week claimed by mailing the report during that week, properly

stamped and addressed to the department's local office at which his claim is on file, where permission to report by mail has been granted by the director; provided, further, that the requirement for weekly reporting shall be waived by a representative of the board upon a showing of good cause. (*Department of Workforce Development; Reg 806; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 925; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 80; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 91; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1930; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-6) to the Department of Workforce Development (646 IAC 3-10-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-6 Week defined

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 6. Week. The term "week" means a calendar week ending at midnight Saturday. (*Department of Workforce Development; Reg 807; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 926; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-7) to the Department of Workforce Development (646 IAC 3-10-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-7 Partial unemployment; filing of claim

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 7. (a) An individual is partially unemployed when, because of lack of available work, he is working less than his normal customary hours for his regular employer and is earning less than his weekly benefit amount in any calendar week.

(b) A claim for waiting period or benefits filed at the employment office or special registration point, in person, or by mail when permission to file by mail has been granted by the director, by a partially unemployed individual shall constitute that individual's registration for work and his claim for benefits or waiting period week for the week of partial unemployment covered by the claim; provided, that the claim is filed not later than two (2) weeks after the individual has received the notice under section 2 of this rule from his employer; provided, further, that in case of good cause shown for failure to file a claim for waiting period or benefits within the time prescribed by this rule, the individual shall be allowed to file his claim during an extended period of not less than one (1) week after he has been appropriately notified of his potential rights to benefits and of his earnings with respect to any week of partial unemployment. Failure to file a claim for benefits within the time limit permitted under this rule shall be for good cause if due to failure on the part of the employer to comply with verification or other requirements relating to partial unemployment or to department error. (*Department of Workforce Development; Reg 809; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 926; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 61; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 47; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 291; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1930; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-9) to the Department of Workforce Development (646 IAC 3-10-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-8 Loss of wage credits; forfeiture of benefit rights

Authority: IC 22-4.1-2-3
Affected: IC 22-4-15-6.1; IC 22-4-16-1; IC 22-4.1

Sec. 8. (a) Regardless of when actual payment is made to an individual, all of the individual's wage credits established prior to any day an individual was discharged by such employer for gross misconduct in connection with work shall be void.

(b) A claimant's wage credits shall not be canceled or benefit rights forfeited under IC 22-4-15-6.1 or IC 22-4-16-1 unless and until the claimant has been given notice and an opportunity to appeal the determination. In the event of an appeal of a disqualification under IC 22-4-16-1, the burden of proof shall rest with the department. (*Department of Workforce Development; Reg 810; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 927; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 61; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 215; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 38; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 92; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 23; filed Jul 13, 1972,*

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11:00 a.m.: Rules and Regs. 1973, p. 174; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1931; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2855; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-10) to the Department of Workforce Development (646 IAC 3-10-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-9 Warrants

Authority: IC 22-4.1-2-3

Affected: IC 22-4-12-1; IC 22-4.1

Sec. 9. Benefits shall be paid by warrant from the central office of the department in Indianapolis, Indiana. Except as otherwise provided under section 15 of this rule [section 13 of this rule], warrants shall be payable to the eligible individual and shall be mailed directly to him or her or delivered as the director may designate. (*Department of Workforce Development; Reg 812; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 928; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 46; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1931; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-11) to the Department of Workforce Development (646 IAC 3-10-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-10 Confidentiality of payroll records

Authority: IC 22-4.1-2-3

Affected: IC 22-4-10-6; IC 22-4-32-21; IC 22-4.1

Sec. 10. (a) Evidence relative to the payroll records or data of any employing unit, as reflected by the records of the department, may be given by any member of the board, the director, or any representative, agent, or employee of the department at any judicial or quasi-judicial hearing, including any hearing before an administrative law judge, the review board, or a liability administrative law judge.

(b) The board, the director, or any representative, agent, or employee of the department is authorized to give information to any employer, his or her attorney, or duly authorized representative relative to the payroll records or data of such employer as reflected by the records of the department.

(c) Upon written order of the director, evidence and information relative to the payroll records or data of any employing unit may be given to any other employing unit to determine whether it has incurred rights or liability under IC 22-4-10-6 or IC 22-4-32-21.

(d) A claimant for benefits may obtain information relative to his or her individual earnings reported by any of his or her base period employers by application at an office of the department.

(e) The individual must, however, identify himself or herself to the satisfaction of the employee of the department. (*Department of Workforce Development; Reg 813; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 929; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 62; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 23; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 175; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1931; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-12) to the Department of Workforce Development (646 IAC 3-10-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-11 Wages in lieu of termination notice, allowance, or accrued vacation pay

Authority: IC 22-4.1-2-3

Affected: IC 22-4-5-1; IC 22-4-5-2; IC 22-4-15-1; IC 22-4-15-4; IC 22-4.1

Sec. 11. (a) An individual who receives wages in lieu of notice, termination allowances, accrued vacation pay, or other income deductible under IC 22-4-15-4, IC 22-4-5-1, or IC 22-4-5-2, cannot establish a waiting period week or receive benefits for the week covered by the deductible income if such payments equal or exceed the individual's weekly benefit amount.

(b) When an individual is disqualified under IC 22-4-15-1 and receives wages in lieu of notice, termination allowances, or accrued vacation pay covering a period of time subsequent to the week in which the disqualifying act occurs, those wages or allowances cannot be used to meet the earnings requirements to restore eligibility following a disqualification under IC 22-4-15-1. (*Department of Workforce Development; Reg 814; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 930; filed Jul 22, 1953,*

11:00 a.m.: Rules and Regs. 1954, p. 46; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 81; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 24; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 170; filed Mar 1, 1974, 3:25 p.m.: Rules and Regs. 1975, p. 306; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 292; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 70; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1932; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-13) to the Department of Workforce Development (646 IAC 3-10-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-12 Leave of absence

Authority: IC 22-4.1-2-3

Affected: IC 22-4-15-1; IC 22-4.1

Sec. 12. (a) Where an individual takes voluntary leave of absence with the consent of the employer, it shall not constitute leaving work voluntarily without good cause within the meaning of IC 22-4-15-1. However, no benefit or waiting period weeks may be accumulated during that period, unless the individual terminates his leave of absence by notifying his employer and making himself available for work.

(b) A leave of absence for a disability granted to an individual by an employer pursuant to the employer's rule or pursuant to terms of a collective bargaining agreement shall be deemed terminated on the day following the disability when the individual again becomes mentally and physically able to work and available for work and establishes their ability to work and availability for work. (*Department of Workforce Development; Reg 815; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 930; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 63; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 24; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 176; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1932; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-14) to the Department of Workforce Development (646 IAC 3-10-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-13 Benefits due deceased claimants; payment to estate or heirs

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 13. (a) Benefits due and payable to a deceased applicant shall be paid to the executor, administrator, or next-of-kin of the deceased if, prior to his death, the decedent had executed a voucher for the benefits claimed. If there is an executor or administrator, payments must be made to the executor or administrator. If it is shown to the satisfaction of the director that there is no executor, and no administrator has been appointed, and in all probability no administrator will be appointed, payment may be made to the next-of-kin, due regard being given to the following order of preference:

- (1) The surviving spouse.
- (2) Children.
- (3) Parents.
- (4) Brothers and sisters.
- (5) Other relatives.

(b) The director, however, is not bound to follow this order of preference.

(c) Whenever there is more than one (1) legal heir in any of the classes established in subsection (a), payment may be made to any one (1) of that group as agent for the others upon submission of proper evidence of authority and identification.

(d) Application for payment of such benefits must be made in writing and on the prescribed form within six (6) months after the death of the decedent; provided, that the department, upon good cause shown, may extend the time for filing. The warrant or warrants representing benefits claimed must accompany the application for payment. Upon approval of the application, the warrant or warrants shall be cross-endorsed to the order of the person entitled to receive the payment. (*Department of Workforce Development; Reg 816; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 930; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1933; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-15) to the Department of Workforce Development (646 IAC 3-10-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-14 Social Security; identification of employees

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 14. (a) Each employer shall ascertain the Social Security number of each worker employed by him or her in employment subject to IC 22-4.

(b) The employer shall report the worker's Social Security number in making any report required by the department with respect to a worker.

(c) No individual will be eligible for a monetary determination of benefits without first providing the department with his or her Social Security number. (*Department of Workforce Development; Reg 818; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 932; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 81; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1933; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-17) to the Department of Workforce Development (646 IAC 3-10-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-15 Payments through public employment offices

Authority: IC 22-4.1-2-3

Affected: IC 22-4; IC 22-4.1

Sec. 15. All unemployment insurance benefits payable under IC 22-4 shall be claimed through public employment offices as required by 26 U.S.C. 3304(a)(1). Wherever it is provided under IC 22-4, or any rule thereunder, that any act is to be performed or thing to be done at or through free employment offices, it shall mean the public employment offices maintained and operated by the United States or the state of Indiana, and those offices are hereby designated for that purpose. (*Department of Workforce Development; Reg 820; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 935; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 64; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 46; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1934; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-18) to the Department of Workforce Development (646 IAC 3-10-15) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-16 Minimum weekly benefits

Authority: IC 22-4.1-2-3

Affected: IC 22-4-12-2; IC 22-4-15-1; IC 22-4-15-2; IC 22-4.1

Sec. 16. Benefits paid at the rate of the minimum weekly benefit amount established by IC 22-4-12-2 in cases in which an individual's weekly benefit amount actually computes to less than the statutory minimum shall not operate to increase that individual's maximum benefit amount. For the purpose of computation and payment of benefits for partial or part-total unemployment, such benefit shall be an amount which, if added to the deductible income with respect to such week, would equal the statutory minimum. In cases where the actual computed weekly benefit amount of the individual is less than the statutory minimum, and if an earnings requirement is imposed by a disqualification under IC 22-4-15-1 or IC 22-4-15-2, the earnings requirement in those sections means the actual computed weekly benefit amount. (*Department of Workforce Development; Reg 821; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 935; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 65; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 216; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 25; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 176; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 292; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 71; filed Dec 11, 1980, 9:50 a.m.: 4 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1935; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-19) to the Department of Workforce Development (646 IAC 3-10-16) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-17 Failure to inform claimant of suitable work offers; effect on benefits

Authority: IC 22-4.1-2-3

Affected: IC 22-4-13-1; IC 22-4-15-2; IC 22-4.1

Sec. 17. In matters adjudicated under IC 22-4-13-1(c), an employer's experience or reimbursable account shall not be relieved unless a claims deputy determines that the offer of work constituted an offer of suitable work within the meaning of IC 22-4-15-2, and that the offer of work made by the employing unit:

- (1) identified the individual by name and Social Security number;
- (2) specified the salary or wage to be paid for the work;
- (3) described the type of work to be performed;
- (4) fixed the hours of work; and
- (5) stated the location of the work.

(Department of Workforce Development; Reg 825; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 937; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 66; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 26; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 177; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1935; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-21) to the Department of Workforce Development (646 IAC 3-10-17) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-18 Effort to secure full-time work by claimant

Authority: IC 22-4.1-2-3

Affected: IC 22-4-14-2; IC 22-4.1

Sec. 18. (a) "Effort to secure full-time work", as discussed in this section, shall require a claimant to show that he has, in addition to registering for work under IC 22-4-14-2, followed a course of action which, with respect to individuals in the same or similar circumstances as the claimant, ordinarily results in the securing of suitable full-time work, considering the customary methods of securing work in occupations which are suitable for the claimant and the current condition of the labor market.

(b) A claimant shall be ineligible for unemployment compensation benefits for any period for which the department finds that he has failed to make effort to secure full-time work. The facts and circumstances in each case shall be considered in determining whether effort to secure full-time work has been made. The following actions may be considered efforts to secure full-time work if found by the department to constitute a reasonable means of securing full-time work by the claimant, under the facts and circumstances of his particular situation:

- (1) Registering with the claimant's union hiring or placement facility.
- (2) Registering with a placement facility of the claimant's professional organization.
- (3) Making application with such employers as may reasonably be expected to have openings suitable to the claimant.
- (4) Registering with a placement facility of a school, college, or university if one is available to the claimant in his occupation or profession.
- (5) Making application or taking examination for openings in the civil service of a government unit with reasonable prospects of suitable full-time work for the claimant.
- (6) Responding to appropriate want ads for work which appears suitable to the claimant.
- (7) Any other action which the department finds to constitute an effective means of securing full-time work suitable to the claimant.

(c) No claimant, however, shall be denied benefits solely on the grounds that he has failed or refused to register with a private employment agency or at any other placement facility which charges the job seeker a fee for its services.

(d) A claimant shall be deemed to have failed to make an effort to secure full-time work if the department finds that he has followed a course of action designed to discourage prospective employers from hiring him in suitable work.

(e) Notwithstanding subsections (a) through (d), if the department finds that for a particular locality, occupation, or class of claimant during a certain interval, the prospects of suitable full-time job openings other than those listed with the public employment service are so remote that any effort to secure work other than by registration for work under IC 22-4-14-2 would be fruitless to the claimant and burdensome to employers, then such registration by the claimant shall be deemed an effort to secure work. In applying these conditions, the department shall consider whether such claimant has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. In determining whether or not a claimant has a reasonable assurance of reemployment, the department shall consider whether the claimant has been temporarily or permanently laid off from his work and, if temporarily laid off, the length of the prospective period of unemployment resulting from such layoff.

(f) This rule does not apply to claimants applying for benefits for a week of partial unemployment. *(Department of Workforce*

Development; Reg 826; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 122; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 26; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 177; filed Aug 30, 1983, 8:36 a.m.: 6 IR 1924; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1935; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-22) to the Department of Workforce Development (646 IAC 3-10-18) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-19 Notice to employer by department

Authority: IC 22-4.1-2-3

Affected: IC 22-4-17-2; IC 22-4-19-13; IC 22-4.1

Sec. 19. (a) All notices to employers originating in the local offices of the department shall be sent to the employer's establishment at which the claimant last worked or to an address designated by the employer. Such designation shall be in writing and shall be sent to the director of unemployment insurance at the central office of the department in Indianapolis, Indiana. When the job location is other than the employer's place of business, the employer's notice shall be sent to the business address. If the employer elects to be represented by an agent or representative and files a power of attorney attesting to the representation, notice shall be mailed to the address indicated by the employer in the document granting power of attorney. Such notices shall include, but will not be limited to, the determinations made when the claimant's benefit eligibility is disputed.

(b) Notices to employers originating in the central office of the department will be mailed as follows:

(1) All notices, including quarterly contribution reports, delinquent notices, and any other such notices concerning interest, penalties, or other information required to properly administrate the law will be mailed to the:

- (A) corporate office of the employer;
- (B) official place of business; or
- (C) designated representative as noted in subsection (a);

except notices which reflect legal action (such notices will include, but not be limited to, warrants and liability appeals) will be mailed without exception to the corporate office or the official place of business.

(2) All notices of:

- (A) a new claim;
- (B) a reopened claim;
- (C) a claim of potential liability; and
- (D) benefit charges;

shall be mailed only to one (1) address to be designated by the employer. Employers who report wages under employer location numbers may elect to have the notices mailed to each separate establishment, the corporate office, or the designated representative.

(Department of Workforce Development; PT II, Reg 829; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 27; filed Feb 17, 1977, 1:26 p.m.: Rules and Regs. 1978, p. 295; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1936; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2855; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-23) to the Department of Workforce Development (646 IAC 3-10-19) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-20 Vocational training course attendance

Authority: IC 22-4.1-2-3

Affected: IC 22-4-14-3; IC 22-4-15-2; IC 22-4.1

Sec. 20. (a) Under IC 22-4-14-3(c), an individual shall not be deemed unavailable for work with respect to any week because the individual is enrolled in, and making satisfactory progress in, training with approval of the department. As defined in this section, "training" means any course of education with the primary purpose of training the applicant in skills that will make the individual more employable. Neither shall an individual be disqualified for refusal of an offer of work under IC 22-4-15-2 if, as a condition of being employed, the individual would be required to discontinue training into which the individual had entered with the approval of the department. The board, or its duly authorized representative, may approve such course for an individual only if it finds that the individual is in training which is provided through Trade Adjustment Assistance (TAA), the Job Training Partnership Act (JTPA), vocational rehabilitation, or the Bureau of Apprenticeship and Training and the joint apprenticeship committee, or the board

finds that all of the following conditions are met:

- (1) The individual is indefinitely unemployed.
- (2) A training course exists for the individual.
- (3) The training course is conducted during a sufficient number of hours, thereby ensuring that requirements of the course are completed in a reasonable length of time.
- (4) The training course relates to an occupation or skill for which there are, or are expected to be, reasonable work opportunities in the labor market or the individual is willing to relocate to an area in which such opportunities exist.
- (5) The training course is offered by a competent and reliable agency, educational institution, or employing unit.

(b) In determining whether a training course is offered by a competent and reliable agency, educational institution, or employing unit, the board, or its duly authorized representative, shall give full weight to whether such agency, institution, or employing unit has been:

- (1) established by law and financed in whole or in part by public funds; or
- (2) approved or regulated by any state regulatory board, agency, or commission.

(Department of Workforce Development; PT II, Reg 830; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 27; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 178; filed Nov 26, 1974, 9:45 a.m.: Rules and Regs. 1975, p. 310; filed Sep 14, 1982, 3:40 p.m.: 5 IR 2372; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1937; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2855; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-24) to the Department of Workforce Development (646 IAC 3-10-20) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-21 Employment in more than one department of single employer

Authority: IC 22-4.1-2-3

Affected: IC 22-4-15-1; IC 22-4.1

Sec. 21. (a) Wage credits earned from an employer, whether in employment in one (1) or more different departments, factories, plants, or establishments, are from a single employer since an employer has only one (1) experience account covering all his operations.

(b) If an employer requires an employee of a department, factory, plant, or establishment to terminate his employment in one (1) department, factory, plant, or establishment, for the purpose of continuing his employment in another department, factory, plant, or establishment of the same employer, such termination is not a separation under IC 22-4-15-1. *(Department of Workforce Development; PT II, Reg 832; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 171; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1937; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-26) to the Department of Workforce Development (646 IAC 3-10-21) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-10-22 Employment during more than one period with single employer

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 22. (a) If a claimant subject to the disqualifications under IC 22-4-15-6 had more than one (1) period of employment with the same employer, the wage credit cancellation applies only to the wage credits earned prior to the date of the disqualifying separation and not to those earned subsequently if the following period of employment was terminated under conditions that would result in wage credit cancellation. Benefits based on subsequent wage credits are chargeable to the employer's experience account.

(b) Benefits properly paid subsequent to a nondisqualifying separation but prior to a disqualifying separation resulting in a wage credit cancellation under IC 22-4-15-6 are proper charges to the employer's experience account. *(Department of Workforce Development; PT II, Reg 833; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 171; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1937; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-27) to the Department of Workforce Development (646 IAC 3-10-22) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-10-23 Cancellation or withdrawal of claim

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 23. Once a claim has been filed by an individual and it has been established as a valid claim, then during the benefit period established that individual cannot cancel, withdraw, or change the time of filing for the purpose of establishing a different benefit period or for any other purpose. (*Department of Workforce Development; Reg 835; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 293; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1938; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-29) to the Department of Workforce Development (646 IAC 3-10-23) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 11. Interstate Benefit Payment Plan

646 IAC 3-11-1 Interstate benefit payment plan

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 1. This rule governs the state of Indiana in its administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants. (*Department of Workforce Development; Reg 901; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 937; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 46; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 48; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1938; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-1) to the Department of Workforce Development (646 IAC 3-11-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-2 Definitions

Authority: IC 22-4.1-2-3
Affected: IC 22-4-22-3; IC 22-4.1

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Agent state" means any state in which an individual files a claim for benefits from another state.

(c) "Benefits" means the compensation payable to an individual, with respect to his or her unemployment, under the unemployment insurance law of any state.

(d) "Interstate benefit payment plan" means the plan approved by the interstate conference of employment security agencies under which benefits shall be payable to unemployed individuals absent from the state in which benefit credits have been accumulated.

(e) "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one (1) or more liable states through the facilities of an agent state. The term shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such claimants in specified areas.

(f) "Liable state" means any state against which an individual files, through another state, a claim for benefits.

(g) "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.

(h) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed. (*Department of Workforce Development; 646 IAC 3-11-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-2) to the Department of Workforce Development (646 IAC 3-11-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-3 Registration for work

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 3. (a) Each interstate claimant shall be registered for work through any public employment office in the agent state when and as required by the law, regulations, rules, and procedures of the agent state. The registration shall be accepted as meeting the registration requirements of the liable state.

(b) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state. (*Department of Workforce Development; 646 IAC 3-11-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-3) to the Department of Workforce Development (646 IAC 3-11-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-4 Benefit rights of interstate claimants

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. (a) If a claimant files a claim against any state, and it is determined by the state that the claimant has available benefit credits in such state, then claims shall be filed only against the state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(b) Under this rule, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. (*Department of Workforce Development; 646 IAC 3-11-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-4) to the Department of Workforce Development (646 IAC 3-11-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-5 Claims for benefits

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. (a) Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with the uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(b) Claims shall be filed in accordance with agent state rules or regulations for intrastate claims in local employment offices, at an itinerant point, or by mail.

(c) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one (1) week, or one (1) reporting period, late. If a claimant files more than one (1) reporting period late, an initial claim must be used to begin a claim series, and no continued claim for a past period shall be accepted.

(d) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state. (*Department of Workforce Development; 646 IAC 3-11-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-5) to the Department of Workforce Development (646 IAC 3-11-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-6 Determination of claims

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. (a) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(b) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to

investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim. (*Department of Workforce Development; 646 IAC 3-11-6; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-6) to the Department of Workforce Development (646 IAC 3-11-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-7 Appellate procedure

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 7. (a) Appeals shall be conducted in accordance with the interstate agreement.

(b) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state. (*Department of Workforce Development; 646 IAC 3-11-7; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-7) to the Department of Workforce Development (646 IAC 3-11-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-11-8 Extension of interstate benefit payments to include claims taken in and for Canada

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 8. This rule shall apply in all its provisions to claims taken in and for Canada. (*Department of Workforce Development; 646 IAC 3-11-8; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) *NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-8) to the Department of Workforce Development (646 IAC 3-11-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 12. Appellate Procedure

646 IAC 3-12-1 Request for hearing before administrative law judge; statement of contention; notice of hearing

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 1. (a) Any interested party in the claim of an employee shall be entitled to a hearing before an administrative law judge relative to the merits of the claim.

(b) "Interested party" means the following:

- (1) Any claimant for benefits.
- (2) Any employer whose account may be affected by the adjudication of the claim.
- (3) Any employer in the claimant's base period.
- (4) Any employer who has made an offer of work to the claimant or to whose employment claimant has been furnished a referral.
- (5) The claimant's last or separating employer.

(c) A party appealing from a decision or order of a deputy shall file its appeal with the department at the office where the original claim was filed or directly with the appellate division on the form provided by the department for that purpose. However, the receipt of any document that indicates on its face a desire to appeal and contains the information requested by the form provided by the department shall be treated as being in compliance with this rule.

(d) Upon scheduling a hearing on an appeal, notices of the hearing shall be mailed to the claimant and to the following:

- (1) The claimant's last or separating employer.
- (2) Each employer who has made an offer of work to the claimant or to whose employment claimant has been furnished a referral.
- (3) Each employer who, other than being chargeable with benefits paid or payable to the claimant, has a direct connection with

the issue or issues raised by the appeal. If it appears to the administrative law judge that an employer was improperly excluded as an interested party, the administrative law judge may cause that employer to be given notice of the hearing and become a party to the appeal.

(Department of Workforce Development; Reg 1001; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 941; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 67; filed Oct 25, 1949, 4:20 p.m.: Rules and Regs. 1950, p. 53; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 94; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 35; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 50; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1941; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-1) to the Department of Workforce Development (646 IAC 3-12-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-2 Disqualification of administrative law judge

Authority: IC 22-4.1-2-3

Affected: IC 22-4-17-15; IC 22-4.1

Sec. 2. An administrative law judge shall abide by and follow IC 22-4-17-15 to ensure the appearance of impartiality. Challenges to the impartiality of an administrative law judge shall be heard and decided by the review board. *(Department of Workforce Development; Reg 1002; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 942; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1941; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-2) to the Department of Workforce Development (646 IAC 3-12-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-12-3 Conduct of hearings before administrative law judge

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) All hearings held before an administrative law judge shall be held at the local office serving the claimant's last employer unless otherwise directed by the executive director. Where the claimant's residence is at a considerable distance from the place of last employment, the claimant shall be given a fair opportunity to present his evidence at a continued hearing to be held at or near the local office nearest his place of residence. Due notice of such continued hearing shall be given to the interested parties.

(b) All hearings shall be conducted informally in order to determine the substantial rights of the parties. The parties may present evidence as the administrative law judge deems necessary for determining the substantial rights of the parties. The parties to the appeal may appear in person, by attorney, or duly authorized agent or representative, under section 12 of this rule, and shall have the right to examine their own witnesses, present evidence, and cross-examine witnesses of the opposing party. Any administrative law judge shall have the right to examine all witnesses and may require the parties to produce any available evidence he may deem necessary for proper determination of the case. Where either party fails to appear or where either party is not represented by an attorney or duly authorized agent, it shall be the duty of the administrative law judge to examine the party's witnesses, and to cross-examine all witnesses of the other party, in order to ensure complete presentation of the case. In general, rules of evidence and procedure for the trial of civil causes shall govern proceedings before an administrative law judge or the review board, but not to an extent as to obstruct or prevent a full presentation of fact or to jeopardize the rights of any interested party. No improper conduct shall be permitted during the progress of the hearing.

(c) When an employer or claimant is not present at any hearing before an administrative law judge or the review board but is represented by an agent or representative, the administrative law judge or the review board shall require the agent or representative to produce proof in writing signed by the claimant or employer giving the agent or representative authority to so appear for and represent that party.

(d) In general, hearsay evidence shall not be considered, but the administrative law judge shall consider all hearsay evidence as would be admissible under common law and statutory rules of evidence of courts in this state. Hearsay evidence which is not subject to a common law or statutory exception with respect to admissibility may be admitted but shall not be entitled to the same weight in reaching a decision as is direct testimony. Hearsay evidence properly objected to and not falling within a recognized exception and admitted into the record shall not form the sole basis for a decision by the administrative law judge or review board. *(Department of Workforce Development; Reg 1003; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 942; filed Mar 31,*

1948, 9:55 a.m.: Rules and Regs. 1949, p. 67; filed Apr 5, 1978, 10:23 a.m.: Rules and Regs. 1979, p. 76; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1941; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-3) to the Department of Workforce Development (646 IAC 3-12-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-4 Continuances

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. (a) The administrative law judge or the review board may continue any hearing upon its own motion or upon written application of any party to the appeal. The written application must be received not later than three (3) days before the date of the hearing. An application for a continuance of a hearing pending before an administrative law judge shall be made to the administrative law judge. If the administrative law judge is unavailable, then the application shall be made to the appeals supervisor. An application for continuance of a hearing pending before the review board shall be made to the chairman of the review board.

(b) If the party who has requested the appeal fails to appear at an administrative law judge hearing, after having received due notice, the administrative law judge may, in his discretion, dismiss the appeal and the determination from which the appeal was requested shall be deemed final unless the appeal is reinstated as provided.

(c) The review board may, in its discretion, dismiss any appeal which in its judgment has been abandoned by all interested parties, and the decision from which the appeal was taken shall be deemed final unless the appeal is reinstated as provided. No appeal shall be dismissed as abandoned if any of the interested parties appears in person or by representative at the review board hearing and refuses his consent to the dismissal.

(d) An appealing party shall be deemed to have abandoned his or her appeal to the review board if neither the party nor his or her representative personally appears at the time and place fixed for the review board hearing; except that in a proceeding before the review board to review a decision of an administrative law judge, the party appealing, or any other interested party, may, in lieu of personal appearance or representation, submit to the review board, not later than three (3) days prior to the date set for a hearing, his or her written request that the appeal be heard and decided upon the evidence in the record made before the administrative law judge.

(e) If a party failing to appear at an administrative law judge hearing shall apply within seven (7) days from the date of mailing of the decision or notice of disposition and show good cause why the case should be reinstated, the same shall be reinstated. No case shall be reinstated more than once. (*Department of Workforce Development; Reg 1004; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 943; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 69; filed Sep 5, 1952, 1:40 p.m.: Rules and Regs. 1953, p. 108; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 51; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1942; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-4) to the Department of Workforce Development (646 IAC 3-12-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-5 Withdrawal from appeal; reinstatement petition

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. Any party appealing the initial determination of a deputy or a decision of the administrative law judge may withdraw the appeal at any time prior to the hearing by notice in writing, and the decision of the deputy or administrative law judge shall become final and conclusive as against the party withdrawing the appeal unless within seven (7) days after the date of withdrawal a petition in writing for reinstatement is filed. If the petition is timely filed, the appeal shall be reinstated. However, no appeal shall be reinstated more than once. (*Department of Workforce Development; Reg 1005; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 944; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1943; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-5) to the Department of Workforce Development (646 IAC 3-12-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-6 Decision of administrative law judge

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 6. The decision of the administrative law judge shall contain conclusions of law supported by specific findings of fact. The decision shall be in writing and shall be signed by the administrative law judge. Copies shall be sent to the parties named, their representatives or attorneys in the appeal, and to the claim holding office. (*Department of Workforce Development; Reg 1006; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 944; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1943; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-6) to the Department of Workforce Development (646 IAC 3-12-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-7 Request for appeal to review board

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 7. Within eighteen (18) days after the date of mailing the decision of the administrative law judge, the adversely affected party may appeal to the review board. The appeal to the review board shall be filed at the claim holding local office or administrative office, on the form provided by the department. However, the receipt of any document that indicates on its face a desire to appeal and contains the information requested by the form provided by the department shall be treated as being in compliance with this rule. The review board may grant or deny a request for hearing and shall immediately notify all parties in writing. If a hearing is granted, the review board shall notify the parties in writing of the hearing at least ten (10) days prior to the date of the hearing. (*Department of Workforce Development; Reg 1007; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 944; filed Oct 25, 1949, 4:20 p.m.: Rules and Regs. 1950, p. 54; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 52; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1943; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-7) to the Department of Workforce Development (646 IAC 3-12-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-8 Conduct of hearing before review board

Authority: IC 22-4.1-2-3
Affected: IC 22-4.1

Sec. 8. (a) Unless otherwise directed by the review board, all hearings before the review board shall be conducted in the office of the review board in the city of Indianapolis, Indiana.

(b) Each hearing before the review board shall be confined to the evidence submitted before the administrative law judge unless it is an original hearing. Provided, however, the review board may hear or procure additional evidence upon its own motion, or upon written application of either party, and for good cause shown, together with a showing of good reason why such additional evidence was not procured and introduced at the hearing before the administrative law judge. An application for leave to introduce additional evidence made by either party shall set forth the names of the witnesses whose testimony will be offered and the facts to which they are expected to testify. If the new evidence is documentary, then a copy of the document proposed to be introduced shall accompany the application. Such application, if made by the appellant, must be presented at the time the request for hearing is filed. No additional evidence shall be taken except after notice is issued by the review board to all parties to such appeal giving each party an opportunity to rebut the additional evidence. The notice shall designate the time when and place at which additional evidence will be received and shall set forth the names of the witnesses whose testimony will be heard, together with a summary of the facts about which they are expected to testify, and shall include a copy of any document offered as additional evidence. It is further provided, however, that if all parties to an appeal are present at a hearing at which the review board upon its own motion determines to take additional evidence and the parties voluntarily waive their right of notice of the taking of additional evidence, the review board in its own discretion may proceed in the taking of additional evidence.

(c) The review board may remand any proceeding to an administrative law judge for the hearing of additional evidence under the same conditions and after like notice as is provided for the hearing of additional evidence by the review board.

(d) In the hearing of an appeal, the review board may limit the parties to oral argument, or the filing of written argument, or

both. After notice to all parties, any party to any proceeding in which additional evidence is taken may present material evidence relative to the question upon which the review board has authorized or directed the taking of additional evidence, and evidence in rebuttal also may be introduced.

(e) The proceeding of any claim before an administrative law judge ordered by the review board to be removed until it shall be presented, heard, and decided by the review board in the manner prescribed for the hearing of claims before an administrative law judge. (*Department of Workforce Development; Reg 1008; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 945; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 70; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1943; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-8) to the Department of Workforce Development (646 IAC 3-12-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-9 Decision of review board

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 9. (a) The review board shall, as promptly as possible, issue a decision with conclusions of law supported by specific findings of fact. The decision shall be in writing and shall be signed by the members of the review board who heard the appeal.

(b) If a decision of the review board is not unanimous, the decision of the majority shall control, but the dissenting member may file an opinion.

(c) Copies of the decision, together with any dissenting opinion, shall be mailed to the parties, the parties' representatives or attorneys, and the claim holding office.

(d) A decision of the review board which reverses, in whole or in part, the decision of the administrative law judge shall not incorporate by reference or restatement, in whole, the findings of the administrative law judge, but rather shall contain its own findings and conclusions. (*Department of Workforce Development; Reg 1009; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 945; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1944; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-9) to the Department of Workforce Development (646 IAC 3-12-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-10 Witnesses; subpoena; fees; limitation

Authority: IC 22-4.1-2-3

Affected: IC 22-4-17-10; IC 22-4.1

Sec. 10. (a) Whenever the attendance of witnesses or the production of documents or other evidence is desired by any party to the hearing, a request for a subpoena must be filled out, signed by the party, and filed with the deputy where the claim was filed. The request must be filed in time for the subpoena to be issued and served prior to the time and date of the hearing.

(b) Unless directed to issue by a member of the review board or an administrative law judge, or the deputy, a subpoena shall be issued only upon a showing of necessity by the party applying for the subpoena. The request for subpoena must contain the name and address of the individual being subpoenaed and a description of the document, record, or thing to be produced.

(c) Witnesses subpoenaed for any hearing before an administrative law judge or the review board shall receive the sum provided in this article provided for employees of the state for per diem fees, for each day their attendance is required in any hearing or proceeding pending before an administrative law judge or the review board and shall, in addition, receive the sum provided in this article for employees for each mile necessarily traveled in going to and returning from hearings from their residence, as provided under IC 22-4-17-10.

(d) Witnesses shall claim their fees and mileage by executing and filing forms provided by the department within fifteen (15) days after the date of the hearing which they attended. If not claimed within this time, fees will not be allowed. No fees or mileage shall be allowed any witnesses not subpoenaed by the review board, administrative law judge, or deputy.

(e) The review board or administrative law judge may refuse to hear more than three (3) witnesses produced by the same person or party to prove the same fact or facts.

(f) If any party requests more than three (3) witnesses subpoenaed to prove the same fact or facts, such party shall pay the cost of all such witnesses in excess of three (3).

(g) Subpoenas may be served by any of the following:

- (1) A party to the hearing.
- (2) The party's representative as specified under section 12 of this rule.
- (3) A representative of the department.
- (4) The sheriff of the county in which the hearing is to be held.

Any fees for service by the sheriff are the responsibility of the party requesting the subpoena. Subpoenas may be served in any manner specified by the rules governing the trial of civil causes. Subpoenas shall be enforced by the review board in a court of competent jurisdiction as provided for by law. (*Department of Workforce Development; Reg 1010; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 946; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 95; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 36; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 72; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1944; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-10) to the Department of Workforce Development (646 IAC 3-12-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-11 Representation before administrative law judge or review board

Authority: IC 22-4.1-2-3
Affected: IC 22-4; IC 22-4.1

Sec. 11. (a) Any employer or employing unit interested in any benefit claim pending before an administrative law judge or the review board may appear:

- (1) in person;
- (2) by attorney, officer, or member of the firm or its local manager;
- (3) by a recognized public accountant; or
- (4) by a representative of an unemployment compensation service firm.

(b) An employee may appear:

- (1) in person and represent his own interest; or
- (2) by attorney, recognized public accountant, or authorized agent of any bona fide labor organization.

(c) In addition, any interested party may be represented by an individual or member of a class of individuals authorized by rule of the Indiana supreme court to represent parties in judicial or quasi-judicial proceedings.

(d) The review board, in its discretion, may refuse to allow any person to represent a party in any proceeding before it, if it finds that this person is or has been guilty of unethical conduct, or has intentionally or repeatedly failed to observe the provisions of IC 22-4, the rules of the review board, or the rules of the unemployment insurance board.

(e) As used in this section, "attorney", means any person duly admitted and entitled to practice law in the state of his or her residence. Any attorney, agent, or accountant may be required to produce proof of his or her authority and qualifications before appearing in any hearing before any administrative law judge or the review board.

(f) Fees charged to claimants for representation before any administrative law judge or the review board shall be in a sum subject to the approval of the review board. Except in unusual cases this fee shall be for a sum not in excess of fifteen percent (15%) of the unpaid balance of the claimant's maximum benefit amount. (*Department of Workforce Development; Reg 1012; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 947; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 71; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1945; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-12) to the Department of Workforce Development (646 IAC 3-12-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-12 Records of decisions

Authority: IC 22-4.1-2-3
Affected: IC 22-4-17-3; IC 22-4-17-5; IC 22-4.1

Sec. 12. Copies of all decisions of the administrative law judge and of the review board shall be kept on file at the office of the department, Indianapolis, Indiana. These decisions shall not be open to public inspection in a manner as to reveal the names or addresses of the interested parties or their witnesses. (*Department of Workforce Development; Reg 1013; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 948; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2859; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-13)

to the Department of Workforce Development (646 IAC 3-12-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-13 Pleadings; forms

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 13. Unless otherwise provided, all forms, pleadings, and papers in connection with disputed claims shall be filed with the deputy at the office of the department where the claim was filed. All legal motions filed by attorneys or representatives shall be served on all interested parties with a certificate of service. (*Department of Workforce Development; Reg 1014; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 948; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-14) to the Department of Workforce Development (646 IAC 3-12-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-14 Cause number; subsequent pleadings

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 14. All claims pending before an administrative law judge or the review board shall be promptly assigned a cause number and an employer account number. (*Department of Workforce Development; Reg 1015; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 948; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-15) to the Department of Workforce Development (646 IAC 3-12-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-15 Service of notice

Authority: IC 22-4.1-2-3

Affected: IC 22-4-17-14; IC 22-4.1

Sec. 15. Notice of all hearings or proceedings before an administrative law judge or the review board, unless otherwise directed by statute, shall be given by mail, and the proof of the mailing of any notice shall be prima facie proof of the service. Notices and the time period which commences with the service of notices under the appellate regulations shall comply with IC 22-4-17-14. (*Department of Workforce Development; Reg 1016; filed Apr 17, 1947, 4:30 p.m.: Rules and Regs. 1948, p. 237; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 72; filed Oct 25, 1949, 4:20 p.m.: Rules and Regs. 1950, p. 54; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-16) to the Department of Workforce Development (646 IAC 3-12-15) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-16 Depositions; translations

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 16. (a) In all hearings, proof may be made by oral testimony, by documentary exhibits, or by depositions when the convenience of the witnesses or the parties so requires. Depositions shall be taken in the manner and after notice required by statute for taking depositions in civil cases.

(b) No paper or document written in any foreign language shall be introduced in evidence unless it is accompanied by a correct English translation, with satisfactory proof that the translation is a correct translation of the original. Testimony in a language other than English or by the hearing impaired shall be interpreted by an interpreter of either the witness' or the department's choice approved by the administrative law judge or review board. The interpreter is subject to the same oath or affirmation as is the witness. (*Department of Workforce Development; Reg 1017; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 949; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-17) to the Department of Workforce Development (646 IAC 3-12-16) by P.L.105-

1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-17 Docket; order book

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 17. The review board and administrative law judge shall keep a case docket and an order book of all claims pending before the review board and administrative law judge. All cases shall be entered of record in the appropriate docket at the time and in the order in which they are filed, and each case shall be numbered in the order in which it is filed. The case docket of claims and cases pending shall show the following:

- (1) The names of the designated employer and employee.
- (2) The cause number.
- (3) The date of filing.
- (4) The date of issuing of notice of hearing.
- (5) The date of receipt of acknowledgement of the service of such notice.
- (6) The dates of all hearings in connection with such claims.

The order book of the review board and administrative law judge shall be properly indexed and shall show all entries, orders, findings, and final decisions of the review board and administrative law judge. The case docket and order book may be kept by the review board and administrative law judge in any suitable media in accordance with the Indiana rules of procedure. (*Department of Workforce Development; Reg 1018; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 949; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 72; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1947; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*)
NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-18) to the Department of Workforce Development (646 IAC 3-12-17) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-18 Convening review board; quorum; amendment of rules of procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 18. (a) The review board shall convene upon the call of the chairman, for consultation, and for the disposition of matters pending before the review board. Two (2) members of the review board shall constitute a quorum for the transaction of any business and the performance of any act required or authorized to be transacted or performed by the review board.

(b) The chairman, when incapacitated and with the consent of the appointing authority, may designate an acting chairman in his absence. (*Department of Workforce Development; Reg 1019; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 950; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1947; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-19) to the Department of Workforce Development (646 IAC 3-12-18) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-19 Recording hearings; transcripts

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 19. All evidence introduced at any hearing before the review board or an administrative law judge shall be preserved, and all oral evidence shall be recorded, but it shall not be necessary to transcribe the same unless further proceedings are had in which the evidence shall be in issue or be required for a proper determination of the proceeding. A transcript will be prepared only when ordered by the review board for its use or as required for judicial proceedings. (*Department of Workforce Development; Reg 1020; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 950; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1947; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-20) to the Department of Workforce Development (646 IAC 3-12-19) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-20 Transfer of hearing to unemployment insurance board

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 20. Where a claim pending before the review board is transferred to the unemployment insurance board for determination, the hearing shall be held before and decided by the full board. Rules governing hearings before the unemployment insurance board shall be the same as those applicable to hearings before the review board. (*Department of Workforce Development; Reg 1022; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 950; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 72; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 179; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1947; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-22) to the Department of Workforce Development (646 IAC 3-12-20) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-21 Telephone hearings

Authority: IC 22-4.1-2-3

Affected: IC 22-4-17-8.5; IC 22-4.1

Sec. 21. (a) A telephone hearing may be conducted at the initiation of either the review board or an administrative law judge or upon the request of an interested party.

(b) The review board and an administrative law judge may, at their discretion, initiate and conduct a telephone hearing under IC 22-4-17-8.5.

(c) The procedure for a telephone hearing requested by an interested party shall be as follows:

(1) Any party to an appeal may request a telephone hearing by submitting, in writing, the reasons for the request to the administrative law judge or review board. The request must be received by the review board or the administrative law judge three (3) days before the scheduled inperson hearing.

(2) After mailing of a notice of a telephone hearing or after mailing of a notice of a request for a telephone hearing, the claimant or employer has five (5) business days in which to file a written objection to the telephone hearing. Any interested party may object to a request by another party for a telephone hearing and, if both interested parties are located in Indiana and the nonmoving party objects to the request for a telephone hearing, then the review board and administrative law judge is precluded from holding a hearing by telephone.

(3) The review board or administrative law judge shall grant or deny requests for telephone hearings under IC 22-4-17-8.5 and immediately notify the interested parties of their decision.

(d) The notice of a telephone hearing shall contain the following:

(1) That parties have the right to object to a telephone hearing.

(2) The circumstances under which the telephone hearing will be conducted.

(3) Instructions as to how the telephone hearing will be conducted.

(4) Other rights of the parties.

(e) All hearings before an administrative law judge shall be held at the local office having hearing facilities nearest the employer who is an interested party. The location of the employer will be determined by the claimant's last work site or the office site of the claimant's immediate supervisor and as further defined by this rule.

(f) A witness for a telephone hearing must be present at the local office in Indiana or at the location of the party participating by telephone as indicated in the hearing notice or request for telephone hearing. The review board or administrative law judge at the beginning of the hearing shall advise all participants that the proceedings are being recorded. The review board or administrative law judge shall permit any party a reasonable opportunity to question any witness testifying via telephone for the purpose of verifying the identity of that witness. Telephone hearings shall be subject to the general rules and regulations governing inperson hearings. In order for documentary evidence to be included in the record in a telephone hearing, it must have been delivered to the review board, administrative law judge, and other interested parties at least five (5) business days prior to the telephone hearing. (*Department of Workforce Development; 646 IAC 3-12-21; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1948; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-23) to the Department of Workforce Development (646 IAC 3-12-21) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-22 Job training and counseling

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 22. (a) The department shall provide job counseling or training, as defined in subsection (b), to an individual who remains unemployed for at least four (4) weeks. An unemployed individual who is ineligible to receive benefits may be entitled to job counseling and training. The manner and duration of the counseling and training to be provided shall be determined by the unemployment insurance board.

(b) As used in this section, "counseling" includes those activities which assist an individual in gaining self-knowledge, adapting emotionally and financially to his or her current situation, and establishing a course of action leading to employment and financial independence.

(c) As used in this section, "training" includes those activities which enhance the skills an individual needs to secure and maintain employment.

(d) Counseling and training activities may include work orientation, development of basic and master skills evaluations, school to career programs, development of performance standards and proficiencies, and other activities as directed by the unemployment insurance board.

(e) Counseling and training services may be offered either on an individual or group basis depending on the program structure of the service delivery area and approval by the department.

(f) The department shall be responsible for identifying and referring unemployed workers to appropriate counseling and training programs and tracking unemployment insurance claimants who are referred to and receive counseling and training services. (*Department of Workforce Development; 646 IAC 3-12-22; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1948; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-24) to the Department of Workforce Development (646 IAC 3-12-22) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 13. Reciprocal Arrangements

646 IAC 3-13-1 Reciprocal coverage of multistate workers

Authority: IC 22-4.1-2-3

Affected: IC 22-4-22-1; IC 22-4-22-2; IC 22-4.1

Sec. 1. This rule governs the department in its administrative cooperation with other states subscribing to the interstate reciprocal coverage arrangement, hereinafter referred to as the arrangement. (*Department of Workforce Development; Reg 1101; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 951; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 37; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 52; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1949; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2859; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-1) to the Department of Workforce Development (646 IAC 3-13-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-2 Definitions

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Agency" means any officer, board, commission, or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

(c) "Customarily performed services by an individual in more than one (1) jurisdiction" means services performed in more than one (1) jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one (1) jurisdiction or if such services are required or expected to be performed in more than one (1) jurisdiction under the election.

(d) "Interested jurisdiction" means any participating jurisdiction to which an election submitted under this rule is sent for its

approval.

(e) "Interested agency" means the agency of jurisdiction.

(f) "Jurisdiction" means any state of the United States, the District of Columbia, Canada, or, with respect to the federal government, the coverage of any federal unemployment compensation law.

(g) "Participating jurisdiction" means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated. (*Department of Workforce Development; 646 IAC 3-13-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1950; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-2) to the Department of Workforce Development (646 IAC 3-13-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-3 Submission and approval of coverage elections under the interstate reciprocal coverage arrangement

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. (a) Any employing unit may file an election to cover under the law of a single participating jurisdiction all of the services performed for him by an individual who customarily works for him in more than one (1) participating jurisdiction. An election may be filed, with respect to an individual, with any participating jurisdiction in which:

(1) any part of the individual's services are performed;

(2) the individual has his or her residence; or

(3) the employing unit maintains a place of business to which the individual's services bear a reasonable relation.

(b) The agency of the elected jurisdiction shall initially approve or disapprove the election. If the agency approves the election, it shall forward a copy to the agency of each other participating jurisdiction specified, under whose unemployment compensation law the individual or individuals in question might, in the absence of the elections, be covered. Each interested agency shall approve or disapprove the election, as promptly as practicable, and shall notify the agency of the elected jurisdiction accordingly.

(c) In case its law so requires, any interested agency may, before taking action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

(d) If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons.

(e) An election shall take effect as to the elected jurisdiction only if approved by its agency and by one (1) or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it is approved by the agency.

(f) In case any election is approved only in part, or is disapproved by some of the agencies, the electing employing unit may withdraw its election within ten (10) days after being notified of this action. (*Department of Workforce Development; 646 IAC 3-13-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1950; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-3) to the Department of Workforce Development (646 IAC 3-13-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-4 Effective period of elections

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. (a) An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, the earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

(b) The application of an election to any individual under this rule shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one (1) participating jurisdiction. Such termination shall be effective at the close of the calendar quarter in which notice of the finding is mailed to all parties affected.

(c) Except as provided in subsection (b), each election approved shall remain in effect through the close of the calendar year

in which it is submitted until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(d) Whenever an election under this rule ceases to apply to any individual under subsection (b) or (c), the electing unit shall notify the affected individual accordingly. (*Department of Workforce Development; 646 IAC 3-13-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1951; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-4) to the Department of Workforce Development (646 IAC 3-13-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-5 Reports and notices by the electing unit

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. (a) The electing unit shall promptly notify each individual affected by its approved election and shall furnish the elected agency a copy of the notice.

(b) Whenever an individual covered by an election under this rule is separated from employment, the electing unit shall notify the individual as to the jurisdiction under whose unemployment compensation law the services have been covered. If, at the time of termination, the individual is not located in the elected jurisdiction, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

(c) The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one (1) participating jurisdiction or where a change in the work assigned to an individual requires him or her to perform services in a new participating jurisdiction. (*Department of Workforce Development; 646 IAC 3-13-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1951; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-5) to the Department of Workforce Development (646 IAC 3-13-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-6 Approval of reciprocal coverage elections

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. The Indiana unemployment insurance board delegates to the director of the department authority to approve or disapprove reciprocal coverage elections in accordance with this rule. (*Department of Workforce Development; 646 IAC 3-13-6; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1952; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-6) to the Department of Workforce Development (646 IAC 3-13-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 14. Liability Referee Hearings

646 IAC 3-14-1 Protest of benefit charges; hearings and decisions by liability administrative law judge

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. (a) Any protest of charges made to an employer's experience account as reflected by the monthly statement issued by the department must be made in writing within fifteen (15) days after it is mailed to the employer's last known address. Unless protest is filed within the provided time, the records of the department shall be considered to be correct. The protesting employer may file either on the form provided by the department for that purpose, or any other document that shows a clear desire to protest charges. In any case, the protest must be signed by the employer. The protest may be filed either at a local office of the department or at the administrative office. When filed with the liability administrative law judge, a time, place, and date of hearing shall be set by the liability administrative law judge. The hearing shall be held only after not less than ten (10) days following the mailing of the notice of hearing. The protest filed by the employer shall contain the following:

- (1) The name and Social Security number of the claimant whose benefits, as alleged to have been charged, are protested.
- (2) The date of the receipt by the employer of the statement of benefit charges to which the protest is directed.
- (3) The week for which benefits were paid and the amount of each weekly payment, with respect to the charging of the benefits the protest is directed.
- (4) The cause or grounds for the protest and the particular fact relied upon to support the protest.

(b) By permission of the liability administrative law judge, the employer may amend its protest at any time prior to or during the course of the hearing. The liability hearing will be confined to the issues raised by the employer's protest, and the liability administrative law judge shall have no jurisdiction to determine the benefit rights of any individual to whom benefits have been paid as the result of a final determination.

(c) When a written protest to charges or a written request for relief from charges is filed by an employer by reason of benefits paid to any individual, and when the protest or request for relief is based upon a claim that the employer was not notified of the filing of the individual's claim for benefits and of the employer's liability for charges to its experience account by reason of benefits paid to that individual, then the liability administrative law judge shall hear and determine the protest or request after notice under subsections (a) through (b).

(d) The liability administrative law judge shall determine that the employer's experience account shall be relieved of charges by reason of benefits paid to an individual only when the following has been determined by the liability administrative law judge:

- (1) The individual was ineligible for benefits paid, and that the individual's eligibility for benefits could have been and would have been protested by the employer if due notice had been given the employer of the filing of the individual's claim and the employer's liability for charges to its experience account by reason of benefits paid that individual under the claim.
- (2) The employer, if it had been given due notice of the filing of a claim by an individual and of the employer's liability for charges to its experience account by reason of benefits paid under the claim to the individual, could have and would have protested that individual's eligibility for benefits and could have been and would have been able to establish the ineligibility for benefits of that individual, or any disqualification for or reduction in such benefits.

(e) No employer's account shall be relieved of charges for benefits paid to any individual by reason of ineligibility claimed because of any prospective action which might have been taken by the employer, if the employer had received due notice of the filing of the claim and his or her liability for charges to his or her experience account for all or any portion of benefits paid thereunder, but relief from the charges to his or her experience account shall be granted to an employer only if the employee was ineligible for benefits or subject to a disqualification, by reason of facts which actually existed or events which actually occurred. For example, Claimant A filed a claim for benefits and benefits paid him or her were charged to experience account of Employer B as the only employer from whom claimant had earnings in his or her base period. Employer B filed a protest and request for relief of his or her account from charges for the benefits paid. Employer B claimed he or she did not receive notice of benefit liability and did not know of the filing of A's claim, nor that said Employer B's account was to be charged with benefits paid to Claimant A. The employer further claimed he or she would have made an offer of suitable work to Claimant A if due notice of filing of the claim had been duly given him or her.

(f) The employer's account shall not be relieved of charges because of failure to give the employer notice of the filing of the claim, for the claimant was not ineligible for benefits or subject to a disqualification by reason of facts which actually existed or events which actually occurred at or prior to the time of filing his or her claim. When an employer has filed a written protest to or request for relief from charges to his or her experience account for benefits which may be or have been paid to a claimant subsequent to the filing by the employer of a written protest to the payment thereof or to the eligibility for benefits of the claimant, together with a request in writing for a hearing thereon, then, and in these cases, the liability administrative law judge shall have no further jurisdiction of the proceeding until after the hearing has been held by the appellate section of the department upon the employer's original protest. (*Department of Workforce Development; Sec II, Reg 1201; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 72; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 179; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1952; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2597; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-13-1) to the Department of Workforce Development (646 IAC 3-14-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 15. Seasonal Employment

646 IAC 3-15-1 Seasonal employer; determination by department

Authority: IC 22-4.1-2-3

Affected: IC 22-4-7-3; IC 22-4.1

Sec. 1. (a) An employer in order to be considered a seasonal employer as defined in IC 22-4-7-3 must make application on prescribed forms attesting to the seasonal nature of the business or a portion or portions of an employer's business.

(b) Because of the seasonal nature of the business or because of climatic conditions, the operation of the business or portions thereof is during a regularly recurring period or periods of less than twenty-six (26) weeks in a calendar year. The department shall make a seasonal determination within ninety (90) days after the filing of an application by an employer. (*Department of Workforce Development; Reg 1301; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1953; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-1) to the Department of Workforce Development (646 IAC 3-15-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-2 Seasonal employer; appeal to department

Authority: IC 22-4.1-2-3

Affected: IC 22-4-32; IC 22-4.1

Sec. 2. Any interested party may file an appeal to a determination regarding an approval or disapproval of an election to become a seasonal employer. The appeal must be filed within fifteen (15) days after the determination to obtain review in accordance with IC 22-4-32. (*Department of Workforce Development; Reg 1302; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1953; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-2) to the Department of Workforce Development (646 IAC 3-15-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-3 Seasonal employer; portion of business considered seasonal

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. An employer may be a seasonal employer with respect to a portion of its business only if that portion, under the usual and customary practice in the industry, is identifiable as a functionally distinct operation. For example, a municipally owned golf course in operation twenty (20) weeks per year would be considered a portion of the operation of the municipality. An application would be required to consider this portion as a "seasonal employer". (*Department of Workforce Development; Reg 1303; filed Oct 19, 1983, 10:25 am: 7 IR 47; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-3) to the Department of Workforce Development (646 IAC 3-15-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-4 Seasonal workers; definition; requirements

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-4; IC 22-4.1

Sec. 4. (a) Seasonal employment as defined in IC 22-4-8-4 means service performed for an approved seasonal employer during the approved seasonal period of less than twenty-six (26) weeks.

(b) A seasonal worker is an individual employed by an approved seasonal employer who is employed for less than twenty-six (26) weeks in approved seasonal employment.

(c) An approved seasonal employer will be required to submit information on department forms detailing the number of positions classified as seasonal within the approved portion or portions of such business. Also included will be the opening and closing dates of each seasonal operation. (*Department of Workforce Development; Reg 1304; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1953; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-4) to the Department of Workforce Development (646 IAC 3-15-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-5 Seasonal workers; notification to employee of employment limitations

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. An approved seasonal employer must notify the seasonal employee in writing of the following:

- (1) The employee has been hired for a specific temporary seasonal period as determined by the department.
- (2) The employee is performing services in seasonal employment for an approved seasonal employer.
- (3) Employment is limited to the beginning and ending dates of the seasonal period as determined and approved by the department.

(Department of Workforce Development; Reg 1305; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-5) to the Department of Workforce Development (646 IAC 3-15-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-6 Seasonal employer; seasonal determination; effective date

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. Upon department approval the effective date of a seasonal determination is the first day of the calendar quarter beginning after the date of the seasonal determination. *(Department of Workforce Development; Reg 1306; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-6) to the Department of Workforce Development (646 IAC 3-15-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-15-7 Seasonal employer; reporting wages

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. Seasonal employers are required to keep an accurate account of wages paid to seasonal workers within the seasonal period as determined by the department. The department will furnish seasonal employers the special wage reporting forms with coding for seasonal employees. Wages will continue to be reported on a quarterly basis. *(Department of Workforce Development; Reg 1307; filed Oct 19, 1983, 10:25 a.m.: 7 IR 48; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-7) to the Department of Workforce Development (646 IAC 3-15-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-15-8 Claims for benefits; filing period

Authority: IC 22-4.1-2-3

Affected: IC 22-4-8-4; IC 22-4.1

Sec. 8. For new weeks of unemployment after October 1, 1983, benefits may be paid to individuals on the basis of service performed in seasonal employment as defined in IC 22-4-8-4 only if a claim is filed within the operating period of approved seasonal employment. If the claim is filed outside the operating period of seasonal employment, benefits may be paid on the basis of non-seasonal wages only. *(Department of Workforce Development; Reg 1308; filed Oct 19, 1983, 10:25 am: 7 IR 48; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-8) to the Department of Workforce Development (646 IAC 3-15-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-15-9 Seasonal operations; loss of seasonal status

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 9. A seasonal employer shall give written notice to the department when the seasonal operation exceeds twenty-five (25) weeks in a calendar year; such notice shall be filed within thirty (30) days after completion of the twenty-sixth week of operation. The seasonal employer shall automatically lose its seasonal status for that portion of its operation at the end of the calendar quarter, and wages paid to individuals in that portion of the employer's operation will be useable as regular wages to establish claims. (*Department of Workforce Development; Reg 1309; filed Oct 19, 1983, 10:25 a.m.: 7 IR 48; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-9) to the Department of Workforce Development (646 IAC 3-15-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-10 Reinstatement of seasonal status

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 10. An employer who has lost his or her designation as a seasonal employer and who wishes reinstatement as a seasonal employer may make application with the department for reinstatement in any calendar year subsequent to the year in which its designation as a seasonal employer was revoked. (*Department of Workforce Development; Reg 1310; filed Oct 19, 1983, 10:25 a.m.: 7 IR 48; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-10) to the Department of Workforce Development (646 IAC 3-15-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

ARTICLE 4. VOCATIONAL AND TECHNICAL EDUCATION

Rule 1. General

646 IAC 4-1-1 National uniform definitions and information elements

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. National Uniform Definitions. (1) Policy. The State Board will use nationally uniform definitions and information elements as prescribed by Federal law. The definitions which apply to vocational education in Indiana are delineated in Definitions, section V of the Five-Year State Plan for Vocational Education.

(2) Procedure. The uniform definitions and information elements will be communicated to all eligible recipients for common usage. (*Department of Workforce Development; 1,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 835; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-1-1) to the Department of Workforce Development (646 IAC 4-1-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-1-2 State plan public hearings and public information

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. State Plan Public Hearings and Public Information. The State Board will adopt policies, procedures, rules and regulations, as necessary, at a monthly public board meeting. Copies of such policies, procedures, rules and regulations will be distributed to the public including eligible recipients twenty (20) days following each meeting.

The State Board will hold annual public hearing(s) on the State Plan as prescribed by State law in addition to the series of public input hearings required by Federal law. All reasonable comments and presentations will be recorded and taken under consideration before the State Plan is adopted. Notification of hearings will be published in accordance with State law.

Copies of the approved State Plan will be public information and available for review in the State Board office, 401 Illinois Building, 17 West Market Street, Indianapolis, Indiana 46204. Copies of the approved State Plan will be made available upon request. (*Department of Workforce Development; 1,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 835; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC

1-1-2) to the Department of Workforce Development (646 IAC 4-1-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 2. Planning and Coordination

646 IAC 4-2-1 State planning; policy and procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. State Planning. (1) Policy. The State Board will develop the Five-Year State Plan, Annual Program Plan and Accountability Report in accordance with Public Law 227 [IC 20-1-18.3] and the Act.

(2) Procedure. The State Board has adopted a Procedure for State Planning as outlined in the State Plan for Vocational Education. (*Department of Workforce Development; 2,a; filed Dec. 20, 1977: Rules and Regs. 1978, p. 836; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-2-1) to the Department of Workforce Development (646 IAC 4-2-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-2-2 Program coordination

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Coordination.

(1) Policy. (a) The State Board will coordinate all programs of public vocational education.

(b) The State Board has adopted the following Functional Chart to show the coordinated relationships between the Department of Public Instruction, Commission for Higher Education and State Board. The Functional Chart will be reviewed annually by the State Board.

FUNCTIONAL CHART

State Department of Public Instruction
Division of Vocational Education

Functions:

Provides services to public school system.

1. Program development services.
2. Program improvement services.
3. Curriculum and materials development.
4. Student leadership organization services.
5. Certification of public school personnel.
6. State Plan input relative to public schools.
7. Distribution of state funds to public schools.
8. Approved program monitoring.
9. Cooperate with State Board staff for program review and evaluation.

Implementation

- A. Staffing pattern will reflect functions assigned to the Department.
- B. Personnel selection, while requiring conformity to personnel standards established in the State Plan for Vocational Education, will be the responsibility of the State Department of Public Instruction or its designate.
- C. Federal funds may be granted to the Department of Public Instruction for approved services as specified in a contract for administrative services between the State Board and the State Department of Public Instruction.

State Board of Vocational and Technical Education

Functions:

1. Development of the State Plan for vocational education.

2. Statewide coordination of the vocational education system and all approved programs.
3. Definition of vocational education missions and goals of all public vocational institutions and programs.
4. Needs assessments and projection of fiscal and personnel resource needs.
5. Review of legislative budget requests for vocational-technical purposes (operating and capital) of all state institutions and agencies applying for state funds, and make recommendations to the General Assembly.
6. Program approval for state and federal funds.
7. Receive and distribute federal funds available for vocational education and meet federal requirements.
8. Annually evaluate vocational education activities and report findings.
9. Serve as state approval agency for public postsecondary vocational education desiring federal funds eligibility.
10. Adopt rules and regulations for the operation of vocational education in Indiana.
11. Appoint necessary advisory committees needed to perform duties of the State Board.
12. Contract for necessary services.
13. Employ necessary staff to perform the duties of the State Board.
14. Maintain necessary fiscal and statistical data for required reports, audits and for public information.
15. Provide vocational services to prime sponsors under CETA contract.

Implementation

- A. Staffing pattern will reflect functions assigned to the State Board.
- B. Personnel selection, while requiring conformity to personnel standards established in the State Plan for Vocational Education, will be the responsibility of the State Board or its designate.
- C. Federal funds will be budgeted for necessary staff services.

Commission for Higher Education

Functions:

Provides services to postsecondary institutions.

1. State Plan input relative to higher education institutions.
2. Cooperate with State Board for program coordination and fiscal analysis.
3. Cooperate with State Board for program review and evaluation.

Implementation

- A. Staffing pattern will reflect functions assigned to the Commission.
- B. Personnel selection, while requiring conformity to personnel standards established in the State Plan for Vocational Education, will be the responsibility of the Commission for Higher Education or its designate.
- C. Federal funds may be granted to the Commission for approved services as specified in a contract for administrative services between the State Board and the Commission.

(2) Procedure for Cooperative Arrangements. The State Board has developed cooperative arrangements with many State agencies and organizations interested in promoting and providing services that will enhance vocational education.

(a) State Employment Service. The State Board and the Indiana Employment Security Division have entered into a cooperative agreement which assures cooperation at the State and local levels. The information obtained from the Indiana Employment Security Division will be used by the State Board to assist in the determination of employment needs and job opportunities in the State. The information will also be made available to eligible recipients for use in determining the need for vocational education.

(b) Handicapped Persons. Cooperative agreements with other agencies, organizations and institutions concerned with handicapped persons will be encouraged at State and local levels. Agreements with the Division of Special Education, Department of Public Instruction and Indiana Rehabilitation Services Board are in effect at the present time. These agreements will assist the State Board in assuring that funds used for the handicapped are consistent with the State Plan submitted pursuant to section 613 (a) of the Education of the Handicapped Act.

(c) State Apprenticeship Council, Bureau of Apprenticeship and Training. The State Board has agreed to provide related instruction for apprentices who are employed to learn skilled trades under the following conditions.

- (i) The vocational training is supplemental to the on-the-job training experience of the apprentice.
- (ii) The worker involved in the apprenticeable occupation must be at least sixteen (16) years of age, except where a higher minimum age standard is otherwise fixed by law.
- (iii) The apprentice training agreement must specify a given length of planned work experience training through employment on the job which is supplemented by related instruction.
- (iv) The skilled trade:
 - (a) is customarily learned in a practical way through training and work on the job,
 - (b) is clearly identified and commonly recognized throughout an industry, and
 - (c) involves manual, mechanical and technical skills and knowledge.
- (v) Apprentices will be classified as:
 - (a) Registered
 - (1) where the program, apprentice or both are registered under the apprenticeship law of the State in which the apprentice is employed,
 - (2) where the program, apprentice or both are registered by a State apprenticeship agency operating under powers vested in it by legally responsible State authority, and
 - (3) where the program, apprentice or both are registered by the Bureau of Apprenticeship and Training, U.S. Department of Labor, under "standards" or "fundamentals" approved by the Federal Committee on Apprenticeship. Such registration or recognition exists only where neither conditions in paragraph i., ii., iii., v. (a) (1) nor paragraph i., ii., iii., v. (a) (2) of the above exist; or
 - (b) Non-registered—Where the program, apprentice or both are not registered under any of the three conditions in paragraphs i., ii., iii., v. (a) (1), (2), and (3) of the above, but a non-certifiable apprenticeship program is conducted under an implied or written agreement between the apprentice and an individual employer, a group of employers, employer-employee committees, or a governmental agency.
 - (vi) The standards of apprenticeship programs must adhere to the requirements outlined in 20 CFR Part 29 (Department of Labor Apprenticeship Programs).

(d) Indiana Manpower Development Council, Comprehensive Employment and Training Act of 1973 (CETA). The Indiana Manpower Development Council is represented on the State Plan Input Committee. The Executive Officer/State Director of Vocational Education represents the State Board on the Indiana Manpower Development Council. The Executive Director of Indiana Office of Manpower Development serves as a member of the State Plan Sounding Committee and as a member of the State Advisory Council on Vocational Education. These joint memberships aid in the coordination between the two agencies. This cooperative working relationship will be continued in an effort to eliminate unnecessary duplication and to improve vocational education.

The State Board and the Indiana Office of Manpower Development have entered into an interagency agreement for the operation and administration of vocational education services to CETA prime sponsors.

(e) Other Agencies, Organizations and Institutions. The State Board will cooperate with the Indiana Private School Accrediting Commission; Indiana Department of Correction; Department of Veterans' Affairs; Division of Adult Education, Department of Public Instruction and others as necessary to effectively plan and develop vocational education programs in the State.

(f) Other States. The State Board may, upon receiving legislative authority, enter into cooperative agreements with other states for the coordination and administration of vocational programs, services or related activities, when it is deemed by the State Board to be beneficial to vocational education in Indiana.

(Department of Workforce Development; 2,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 836; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-2-2) to the Department of Workforce Development (646 IAC 4-2-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 3. Budget Review

646 IAC 4-3-1 Budget policy

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. The State Board will review State budget requests, operating and capital, of all State institutions and agencies applying for State funding for vocational education and will make recommendations to the General Assembly concerning State appropriations for vocational education. (*Department of Workforce Development; 3,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 839; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-3-1) to the Department of Workforce Development (646 IAC 4-3-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-3-2 Budget review procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure. The State Board Procedure for Budget Review for State Funds for Vocational Education Purpose is outlined in the State Plan for Vocational Education. (*Department of Workforce Development; 3,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 839; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-3-2) to the Department of Workforce Development (646 IAC 4-3-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 4. Program Review

646 IAC 4-4-1 Program criteria

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. The State Board will approve vocational education programs before recipients are eligible for Federal or State funds, using the following criteria.

(1) Secondary

(a) Authority and Planning Approval

(i) As required by Public Law 227 [IC 20-1-18.3], all vocational programs shall be approved by the State Board. Further, the local education agencies shall comply with policies and procedures set forth in the State Plan for Vocational Education and in accordance with the rules for public secondary schools adopted by the Commissions on General Education, Textbook Adoptions and Teacher Training and Licensing.

(ii) Specific vocational programs proposed by a local education agency must receive planning approval by the State Board prior to submission of facility plans (preliminary) to the Division of Schoolhouse Planning, Department of Public Instruction.

(b) General Criteria. Each local education agency seeking program approval for secondary level courses in vocational and technical education must meet the following general criteria.

(i) Students—The local education agency shall insure that:

(a) An organized follow-up of vocational students is accomplished on a one and five-year basis with results reported to the State Board in accordance with appropriate Office of Education (OE) Codes.

(b) All classes are open to both sexes with the same effort to recruit males and females. All classes shall be in compliance with Title IX of the Education Amendments of 1972.

(c) Disadvantaged and handicapped students shall be mainstreamed in regular vocational education programs whenever possible. Modification of programs and additional services are recommended to facilitate this inclusion where practicable.

(ii) Program

(a) General Program Criteria—The local education agency shall insure that:

(1) The student-to-teacher ratio for the program is commensurate with the particular program areas as recommended by the Division of Vocational Education, Department of Public Instruction.

(2) Safety is taught as an integral part of the instructional program in the classroom and at the training station.

(3) The program is directly related to employment opportunities as classified in the most recent edition of the

Dictionary of Occupational Titles and Occupational Outlook Handbook. Individual student career objectives are on file within the local education agency.

(4) A written curriculum is available for each program area.

(b) Additional Cooperative Education Method Criteria—For cooperative education method the following additional criteria apply:

(1) A training agreement explaining essential features of the program and outlining the responsibilities of each party concerned is on file for each student in the teacher-coordinator's office. The training agreement shall be signed by the student, employer, parent and teacher-coordinator.

(2) A schedule of on-the-job training experiences (training plan) for each student is drawn up cooperatively with each employer and is on file in the teacher-coordinator's office. All hazardous equipment to be operated by the student shall be identified in the training plan. The training plan shall be signed by the student, employer, parent and teacher-coordinator.

(3) Employment of students in the program complies with all State and Federal laws pertaining to employment of youth including minimum wage regulations.

(4) Related classroom instruction is provided for all students. Credit given for related classroom instruction is in addition to credit given for on-the-job training.

(5) Students shall be allowed time from the daily school schedule to participate in cooperative education.

(6) Students shall be employed an average of not less than fifteen (15) hours per week during the school year.

(7) The teacher-coordinator shall have time scheduled for coordination activities during the same time students are released for on-the-job training.

(c) Cooperative Education Method Criteria Pursuant to the Act

(1) On-the-job training is related to existing career opportunities acceptable for promotion and advancement, does not displace other workers who perform such work and does not employ student learners in exploitation of the student learner for private gain.

(2) Programs will be approved by the State Board only upon its determination in the local annual application that there will be cooperation in identifying suitable jobs with such agencies and groups as: employers, community advisory groups, local and state advisory committees, employment agencies, labor groups and the Indiana Employment Security Division.

(3) Provision is made for participation of nonprofit private school students in public programs utilizing the cooperative method of instruction.

(4) The school and employer have responsibility for evaluating on-the-job performance of student-trainees and training programs. This is a joint venture between the teacher-coordinator and training sponsor. A student shall be evaluated according to newly acquired experiences and level of skill attainment above and beyond that previously possessed. The program will be evaluated for its effectiveness in meeting the needs and occupational objectives of students.

(5) The participating employer and teacher-coordinator should accept the individual student as the student is and work toward change. Evaluation of students should be in terms of progress toward achieving training objectives.

(6) The teacher-coordinator shall be involved in placement and follow-up of completers and leavers of vocational programs utilizing the cooperative method of instruction.

(iii) Staff—The local education agency shall insure that all teachers listed in each Program of Vocational Instruction Application (PVI) (SBVTE Form 20) are appropriately licensed.

All teachers of secondary vocational education in the public schools shall meet the certification standards as established by the Teacher Training and Licensing Commission of the State Board of Education. Minimum qualifications for instructional personnel are as follows:

(a) Agri-Business Education,

(b) Business Education,

(c) Distributive Education,

(d) Vocational Home Economics Education,

(e) Industrial Education,

(f) Health Occupations Education,

- (g) Interdisciplinary Cooperative Education, and
- (h) Industrial Arts.
- (iv) Advisory Committees—The local education agency shall insure that an advisory committee is organized and functioning with meetings conducted each school year:
 - (a) for the total vocational program in the local education agency and
 - (b) for each program area and, where appropriate, for each program of vocational instruction within the local education agency.
- (v) Facilities and Equipment—The local education agency shall insure that:
 - (a) specific vocational programs proposed by a local education agency have received planning approval by the State Board prior to submission of facility plans (preliminary) to the Division of Schoolhouse Planning, Department of Public Instruction, and
 - (b) the minimum space, facility, and equipment requirements for a vocational program are determined in conjunction with the Division of Vocational Education, Department of Public Instruction.
- (vi) In addition to the above general criteria, each local education agency may obtain vocational program guidelines from the State Board office.

(2) Postsecondary

- (a) Programs—Postsecondary vocational education programs approved by the State Board will receive a designated geographical location. Geographical location means a specific campus or city. Regardless of source of funding, programs requiring approval shall be associate degree, technical certificate and other programs of less than a technical certificate level which contain a sequence of courses culminating in employment opportunities upon successful completion.
- (b) Courses Requiring State or Federal Funding—Courses or grouping of courses requiring State or Federal funds must be approved by the State Board. Justification of courses should include some preliminary measure of need.
- (c) Self-Supporting Courses—Individual courses, credit and non-credit, may be offered within a designated region without further approval by the State Board, providing capital expenditure is not required. Courses must be reported to the State Board for inclusion in State and Federal statistical reports.
Courses offered to adults in continuing vocational education, primarily for upgrading of vocational and technical knowledge and skills, which are self-supporting or privately sponsored by business or industry must be reported to the State Board for inclusion in State and Federal statistical reports. These offerings need not be approved by the State Board.
- (d) Staff—All teachers of vocational education in the postsecondary programs shall meet the certification or other professional standards as established by the school board or board of trustees. Each local education agency, operating postsecondary programs, is encouraged to provide an ongoing in-service professional development program for employees. The statewide in-service training system should be utilized. All local education agencies operating postsecondary programs shall certify to the State Board that all teachers have at least three (3) years of experience in the vocational area being taught.

(e) Resolutions Passed by the State Board

- (i) Resolution 10-2, October 7, 1975—The State Board will take into account all revenues in support of new postsecondary programs in making Federal fund obligations to programs.
- (ii) Resolution 11-1, November 4, 1975—Effective with the next annual budget, the State Board will request a total program planning-development intent plan for each public institution of higher education to be used in planning and budgeting postsecondary Federal funds for new and improved program activities and to aid in the coordination of a legislative recommendation for State funds.
- (iii) Resolution 11-2, November 4, 1975—Effective with the next budget year, the State Board will approve Federal postsecondary funds budgeted for new programs and program improvement purposes in coordination with State funds granted for these purposes by the Indiana General Assembly.

(3) Adult Noncredit

- (a) Programs—The following criteria will be utilized for approval of adult noncredit vocational programs.
 - (i) The primary intent of programs is to serve persons:
 - (a) who have completed or left high school and are not described in the definition of postsecondary program, in

Definitions, section V of this Five-Year State Plan, or

(b) who have already entered the labor market, including apprentices, or who are unemployed.

(ii) Programs will not be approved if the intent is for hobby or self-enrichment purposes.

(iii) Curriculum is designed to meet stated objectives.

(iv) Enrollment is commensurate with instructors and facilities. Extenuating circumstances preventing this enrollment criteria being met will be given due consideration based on justification provided by the applying eligible recipient.

(v) Funding is not already available through another Federal or State source.

(vi) Manpower needs and job opportunities support program request.

(vii) Instructors meet criteria as set forth in section (b) below.

(b) Instructor Standards

(i) All teachers of vocational education in adult noncredit programs shall meet the certification or other professional standards as established by the school board or board of trustees. All eligible recipients operating adult noncredit programs will certify to the State Board that all teachers have at least three (3) years of experience in the vocational area being taught.

(ii) Teachers in adult noncredit vocational education programs will meet any credentialing requirements of other State regulatory agencies in addition to the above requirements.

(4) Teacher Training. All vocational teacher education personnel involved in the preparation of teachers who are in the employment of a university with an approved vocational teacher education program for which Federal reimbursement is sought, shall have a valid Indiana vocational teaching certificate in that area, with a minimum of three (3) years of classroom experience at the secondary or postsecondary level.

In order to professionalize the vocational teaching certificate, all standards as established by the Teacher Training and Licensing Commission must be met with the exception of return to the secondary classroom.

(5) Work-Study

(a) Administration of Programs. Work-study programs shall be administered by local education agencies and made reasonably available (within funding limitations) to all eligible students. The cost of administration for work-study programs shall be supported with non-Federal funds. Local education agencies are required to maintain all records, time cards, payroll vouchers and other data available for Federal and State audit.

(b) Eligible Students -Funding shall be furnished only to a student who:

(i) has been accepted for enrollment or is enrolled as a full-time student in a vocational education program which is approved by the State Board,

(ii) is in good standing and is in full-time attendance,

(iii) is in need of earnings from such employment to commence or continue a vocational education program, and

(iv) is at least fifteen (15) years of age and less than twenty-one (21) years of age at the commencement of employment, and is capable, in the opinion of appropriate school authorities, of maintaining good standing in a vocational program while employed under a work-study program.

(c) Limitation on hours and compensation. No student shall be employed under work-study programs for more than twenty (20) hours in any week in which the student's classes are in session, nor compensated in excess of the hourly rate prevailing in the area for persons performing similar duties.

(d) Eligible Employers. Employment under work-study programs shall be for the local education agency or for other public or nonprofit private agency or institution.

(e) Maintenance of Effort. In each fiscal year during which work-study programs remain in effect, the local education agency shall expend (from sources other than payments from Federal funds under this State Plan) for employment of its students (whether or not employment is eligible for assistance under this State Plan) an amount that is not less than its average annual expenditure for work-study programs of a similar character during three (3) fiscal years preceding the fiscal year in which its work-study program under this State Plan is approved.

(f) Priorities for Funding. See Work-Study, section II. B. 2. of the Five-Year State Plan for Vocational Education.

(g) Non-Federal Service Employment. Students employed in work-study programs assisted pursuant to this State Plan shall not by reason of such employment be deemed employees of the United States nor the employment as Federal service, for any reason.

(6) Policies and Procedures for Provision of Stipends

(a) Use of Funds. The State Board may use funds for the provision of stipends for students entering or already enrolled in vocational education programs if students have acute economic needs which cannot be met under work-study programs subject to restrictions in (b) below.

(b) Restrictions on Payment of Stipends. No funds shall be used for the payment of stipends to students entering or already enrolled in programs of vocational education unless the State Board first makes a specific finding in each instance that funding is necessary due to:

- (i) inadequate funding in other programs providing similar activities or
- (ii) other services in the area that are inadequate to meet needs.

(c) Rates for Stipends. Students entering or already enrolled in vocational education programs may be paid stipends at a rate not to exceed the higher of:

- (i) the minimum wage prescribed by State or local laws multiplied by the number of hours per week the student is enrolled in the vocational education program or
- (ii) the minimum hourly wage set out under section 6 (a) (1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours per week the student is enrolled in the vocational education program.

(7) Supportive Services and Program Improvement Activities. The State Board will establish supportive services and program improvement priorities.

The State Research Advisory Committee, the State Curriculum Advisory Committee and a State Personnel Training Advisory Committee will be appointed by the Executive Officer/State Director of Vocational Education and confirmed by the State Board.

Supportive services and program improvement contracts or grants may serve to supplement or be coordinated with projects from other sources of Federal or State funds. Funds will not be commingled with State or local funds but will be separately identified as expenditures of Federal funds.

The State Board may assign project monitors for supportive services and program improvement contracts or grants.

No contract will be made for research or curriculum development activities unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five (5) years after the termination date of such contracts. Exemplary programs may be funded for three (3) years as innovative programs. After that time exemplary programs will receive high priority for funding as regular programs.

(8) Home Economics Education Curriculum Policy—The General Commission of the State Board of Education approved on April 14, 1971 and filed with the Office of Secretary of State on April 21, 1971, a curriculum for home economics education.

All home economics education programs approved by the State Board must meet these requirements.

(Department of Workforce Development; 4,a.; filed Dec 20, 1977: Rules and Regs. 1978, p. 839; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-4-1) to the Department of Workforce Development (646 IAC 4-4-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-4-2 Application procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure

(1) Annual Application

(a) The State Board will establish a submission date annually for receipt of annual applications. Notification of the due date will be announced to potential recipients not less than thirty (30) calendar days prior to the date due. The application will be submitted on forms provided by the State Board and applicants will be notified in writing of action taken. The notification of approval may include such terms and conditions as deemed appropriate to assure that the program meets standards specified in this State Plan.

(b) Content. Funds will be distributed to eligible recipients on the basis of annual applications which:

- (i) have been developed in consultation with representatives of the education and training resources available to the area and the local advisory committees required by the Act,

(ii) describe the vocational education needs of potential students in the area, such as: enrollments, numbers of disadvantaged or handicapped students, persons of limited English-speaking ability, projection of vocational education programs and budgets for five-year period, and number of students in private nonprofit schools applicable to cooperative education, exemplary and special disadvantaged; and to what extent the proposed program will meet such needs,

(iii) describe how evaluations of previous years including those required by the Act have been used to develop proposed programs,

(iv) describe how the proposed activities relate to manpower programs conducted in the area under the Comprehensive Employment and Training Act of 1973 (CETA), and

(v) describe the relationship between vocational education programs and other programs in the area supported by State and local funds.

(c) Priorities for Approval. The State Board shall, in considering the approval of such applicants, give priority to those applicants which:

(i) are located in economically depressed areas and areas with high rates of unemployment and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance and

(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and Nation.

The State Board has made the decision to use unemployment rate and economically disadvantaged rate as the two elements to determine economically depressed areas in the State. The source of information is the Indiana Employment Security Division.

Applications for work-study, handicapped, disadvantaged and special disadvantaged will be prioritized according to established criteria ratings. Applications will be funded on the basis of available funds. Approved applications other than work-study, handicapped, disadvantaged and special disadvantaged will be funded in accordance with the funding formula of this State Plan for Vocational Education.

(d) Appeal Procedure. An eligible recipient shall have thirty (30) days, following notification in writing by the State Board of disapproval or suggested revisions, to submit a request for a hearing on the application. If a hearing is requested, the hearing shall be held in the office of and by the Executive Officer/State Director of Vocational Education, and a written record will be kept on the proceedings. Written notification of the decisions reached and the reasons therefore, will be sent to the eligible recipient by the Executive Officer/State Director of Vocational Education within fifteen (15) days following the hearing. The eligible recipient may appeal the findings to the State Board at the next regularly scheduled meeting following the written notification.

If any eligible recipient is dissatisfied with the final action of the State Board with respect to approval of an application, such eligible recipient may, within sixty (60) days after such final action or notice thereof, whichever is later, file a petition for review of that action with the United States Court of Appeals for the circuit in which the State is located. A copy of the petition shall be forthwith transmitted by the clerk of the Court to the State Board. The State Board thereupon shall file in the Court the record of the proceeding on which the State Board based its action, as provided in section 2112 of Title 28, United States Code.

The findings of fact by the State Board, if supported by substantial evidence, shall be conclusive; but the Courts, for good cause shown, may demand the case to the State Board to take further evidence, and the State Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the Court the record of the further proceedings.

The Court shall have jurisdiction to affirm the action of the State Board or to set it aside in whole or in part. The judgment of the Court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28, United States Code.

(2) Program Application Procedure

(a) Secondary Procedure

(i) New Vocational Programs

(a) A letter of intent must be submitted to the State Board by the local education agency at least five (5) months prior to the date of anticipated implementation. If the local education agency is within the service area of a

- designated area vocational program, a copy of the intent must be sent to the area vocational director.
- (b) Extensive planning by the local education agency with assistance from the appropriate State agencies shall take place in the development of the program.
- (c) Two (2) copies of the written proposal, Secondary Vocational Education New Program Proposal Format (SBVTE Form 16), shall be submitted to the State Board and one (1) copy to the area vocational director, no later than seventy-five (75) days prior to the date of anticipated implementation.
- (d) Applications will be reviewed by the State Board using the procedure outlined in Policies and Procedures, section I. D. of the Five-Year State Plan.
- (ii) Expansion of Existing Approved Programs. The local education agency must submit to the State Board a Program Expansion Intent Form (SBVTE Form 17) and a Program of Vocational Instruction Application (PVI) (SBVTE Form 20) at least three (3) months prior to the anticipated expansion of an existing program. For new course offerings, the local education agency must submit to the State Board a Program Expansion Intent Form (SBVTE Form 17), a Program of Vocational Instruction Application (PVI) (SBVTE Form 20) and a Curriculum Outline (SBVTE Form 21) at least three (3) months prior to the anticipated date of implementation.
- (b) Postsecondary Procedure
- (i) After all institutional clearances have been obtained, including approval by the Board of Trustees, six (6) copies of the Postsecondary Vocational Program Application Format (SBVTE Form 24) will be presented to the State Board.
- (ii) Applications will be reviewed by the State Board using the procedure outlined in Policy and Procedures, section I. D. of the Five-Year State Plan.
- (c) Adult Noncredit Vocational Education Application Procedure
- (i) Eligible recipients must submit to the State Board an application for new adult programs utilizing the Program of Adult Vocational Instruction Application (PVI) (SBVTE Form 10) at least thirty (30) days prior to the anticipated date of implementation.
- (ii) Applications must be reviewed by the State Board using the procedure outlined in Policies and Procedures, section I. D. of the Five-Year State Plan.
- (d) Procedure for Program Application and Approval. The procedure for program application and approval may be found in the State Plan for Vocational Education.
- (e) Work-Study Application Procedure. The local education agency must submit to the State Board an Application and Agreement to Participate in Work-Study Program (SBVTE Form 7). The State Board will establish submission dates annually.
- (f) Equipment Application Procedure. Requests for vocational instructional equipment must be submitted to the State Board on Equipment Request (SBVTE Form 13) between May 1 and June 30 prior to the school year in which the equipment will be purchased. The State Board must approve requests prior to the eligible recipients' obligation for purchase. After an equipment request has been approved by the State Board, the eligible recipient has until the following May 1 to submit paid invoices in order to receive reimbursement. If purchase orders are received by May 1 in lieu of paid invoices, the Executive Officer/State Director of Vocational Education will encumber the amount approved for an additional year (the following May 1). In the event that paid invoices are not received prior to the deadline, then all encumbered funds will be deobligated, and the equipment request will become null and void. Eligible recipients must use the proper equipment invoice or purchase order submittal cover sheet to submit invoices or purchase orders. For additional information refer to Equipment Management Requirements, State Board, Revised March, 1976.
- (g) Application for Stipends. Eligible recipients desiring to provide stipends shall include a request for funds in the application submitted to the State Board and shall assure that each applicant meets the requirements of the Five-Year State Plan.
- (h) Application Procedures for Supportive Services and Program Improvement. A prospectus and proposal will be made for each contract or grant.
- (i) An announcement requesting prospectuses will be disseminated to prospective applicants.

- (ii) Prospectus writers must make application to the State Board on approved State Board forms by the date specified in the announcement.
- (iii) Prospectus review will be made by the State Board staff utilizing advice from appropriate State agencies and advisory committees.
- (iv) Recommendations for proposal requests will be made to the State Board. Writers of prospectuses approved by the State Board will receive an invitation to submit a proposal.
- (v) Proposals will be returned on approved State Board forms by the date specified in the request.
- (vi) Proposal review will be made by the State Board staff utilizing advice from appropriate State agencies and advisory committees according to the following criteria:
 - (a) Priority Area—The application focuses on an announced priority area(s) and further delineates the priority area(s).
 - (b) Need and Problem—The application clearly defines the need for the project or activity and delineates the problem rather than symptoms of the problem.
 - (c) Objectives—The objectives of the proposed project or activity are sharply defined, clearly stated, capable of being attained by the proposed procedures and capable of being measured.
 - (d) Plan—The application clearly describes the general design for the proposed project or activity. The procedures specify in detail how each objective will be accomplished, and an adequate project management plan is available. If appropriate, the dissemination plans are included.
 - (e) Results—The proposed results or end products (observable or measurable) are identified and described in terms of impact and if applicable, conveyance to other education projects or programs.
 - (f) Personnel—The qualifications and experience of personnel are appropriate for the proposed project or activity.
 - (g) Institutional Commitment—The application shows reasonable evidence of commitment to provide adequate facilities and equipment and provides documented assurance of support from cooperating institutions and agencies when necessary for project success.
 - (h) Evaluation Techniques—The application describes the evaluation method to be used for all aspects of the project.
 - (i) Budget—The estimated cost is reasonable in relationship to the size, scope, duration and anticipated results of the project.
- (vii) Recommendations will be submitted to the State Board by the State Board staff. The State Board determines final action on all applications.
- (viii) An approved proposal shall serve as the contract or grant agreement between the contractor or grantee and the State Board.

An application that is amended, deferred or disapproved does not necessarily preclude its reconsideration or resubmission. The contractor or grantee will be notified by the State Board concerning the disposition of the application.

The obligation letter or funding letter for the contract or grant may include the approved budget and amendment conditions as requested by the State Board in accordance with State and Federal rules, regulations and laws. The contractor or grantee may accept or reject the grant or contract.

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646 IAC 4-4-3 Program approval and planning approval requirements

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Requirements for Vocational Program Approval and Planning Approval. (1) Program Approval. All vocational programs, as required by Public Law 227 [IC 20-1-18.3], ACTS 1975 (Senate Bill No. 85, 99th General Assembly, 1st Regular Session), shall be approved by the State Board of Vocational and Technical Education (SBVTE). Further, the local educational agencies shall comply with the policies and procedures as set forth in the "State Plan" for vocational education, and in accordance

with the rules for public secondary schools as adopted by the commissions on General Education, Textbook Adoptions, and Teacher Training and Licensing.

(2) Program Planning Approval. Specific vocational programs proposed by an LEA must receive planning approval by the State Board of Vocational and Technical Education prior to submission of facility plans (preliminary) to the Division of Schoolhouse Planning, Department of Public Instruction. (*Department of Workforce Development; Rule V-1; filed Sep 29, 1978, 2:31 pm: 1 IR 1066; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-4-3) to the Department of Workforce Development (646 IAC 4-4-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-4-4 Criteria for approval

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. General Criteria. Each Local Education Agency (LEA) seeking program approval for Secondary level courses in vocational/technical education must meet the following general criteria:

(1) Credit. The LEA shall insure that:

(A) Students shall receive one (1) credit per semester toward graduation for each nominal hour of classroom or laboratory instruction. At least two (2) credits per semester shall be earned via on-the-job training in a cooperative education program.

(2) Students. The LEA shall insure that:

(A) An organized follow-up of vocational graduates is accomplished on a one- and five-year basis with results reported to the State Board of Vocational and Technical Education in accordance with the appropriate Office of Education (OE) Codes.

(B) All classes are open to both sexes with the same effort to recruit males and females. All classes shall be in compliance with Title IX of the Education Amendments of 1972.

(C) Disadvantaged and handicapped students shall be mainstreamed in regular vocational education programs whenever possible. Modification of programs and/or additional services are recommended to facilitate this inclusion where practicable.

(3) Programs. The LEA shall insure that:

(A) The student-to-teacher ratio for the program is commensurate with the particular program area.

(B) Safety is taught as an integral part of the instructional program, both in the classroom and the training station.

(C) The program is directly related to employment opportunities as classified in the most recent edition of the Dictionary of Occupation Titles and Occupational Outlook Handbook. Individual student career objectives are on file within the LEA.

(D) Written program goals, objectives, or curriculum are available for each program area.

(4) Cooperative Education Method. The LEA shall insure that the following additional criteria apply:

(A) A training agreement explaining the essential features of the program and outlining the responsibilities of each party concerned is on file for each student in the teacher-coordinator's office. The training agreement shall be signed by the student, employer, parent, and teacher-coordinator.

(B) A schedule of on-the-job training experiences (training plan) for each student is drawn up cooperatively with each employer and is on file in the teacher-coordinator's office. All hazardous equipment to be operated by the student shall be identified in the training plan. The training plan shall be signed by the student, employer, parent, and teacher-coordinator.

(C) Employment of students in the program complies with all state and federal laws pertaining to the employment of youth including minimum wage regulations.

(D) Related classroom instruction is provided for all students. Credit given for the related classroom instruction is in addition to the credit given for on-the-job training.

(E) Students shall be allowed time from their daily school schedule to participate in cooperative education.

(F) Students shall be employed an average of not less than fifteen (15) hours per week during the school year. Modifications will be considered for disadvantaged and handicapped students.

- (G) The teacher-coordinator shall have time scheduled for coordination activities during the same time students are released for on-the-job training.
- (5) Staff. The LEA shall insure that:
- (A) All teachers in each Program of Vocational Instruction (PVI) are appropriately licensed. All teachers of secondary vocational education in the public schools shall meet the certification standards as established by the Teacher Training and Licensing Commission of the State Board of Education.
- (6) Advisory Committees. The LEA shall insure that:
- (A) An advisory committee is organized and functioning with meetings conducted each school year:
 - (1) for the total vocational program in the LEA,
 - (2) for each program area and/or, where appropriate, for each PVI within the LEA.
- (7) Facilities and Equipment. The LEA shall insure that:
- (A) Reference to Rule V-1, Section 2 [646 IAC 4-4-3(2)]. Specific vocational programs proposed by an LEA have received planning approval by the SBVTE prior to submission of facility plans (preliminary) to the Division of Schoolhouse Planning, Department of Public Instruction.
 - (B) The minimum space, facility, and equipment requirements for a vocational program are commensurate with the particular program area.

(Department of Workforce Development; Rule V-2; filed Sep 29, 1978, 2:31 pm: 1 IR 1066; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-4-4) to the Department of Workforce Development (646 IAC 4-4-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 5. Federal Funds, Fiscal Control and Accounting Procedures

646 IAC 4-5-1 Fiscal control and accounting procedures

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Federal Funds, Fiscal Control and Accounting Procedures. The State Board will follow practices and procedures which will maintain accepted standards of fiscal control and accounting within guides provided and Indiana statutes. *(Department of Workforce Development; 5; filed Dec 20, 1977: Rules and Regs. 1978, p. 851; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-1) to the Department of Workforce Development (646 IAC 4-5-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 4-5-2 Custody of federal funds

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Custody of Federal Funds. The State Board has the legal authority to receive Federal funds. The Treasurer, State of Indiana, 242 State House, Indianapolis, Indiana 46204, is designated by law as the custodian of all Federal funds allocated to the State. Upon receipt of Federal funds for vocational education, either by direct treasury check or by preparation of Letter of Credit Payment Voucher, the State Board will deposit said funds in the proper account with the Treasurer, State of Indiana. *(Department of Workforce Development; 5,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 851; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-2) to the Department of Workforce Development (646 IAC 4-5-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 4-5-3 Expenditure of federal funds

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 3. Expenditure of Federal Funds. The official who has authority to authorize expenditures under the State Plan is the Executive Officer/State Director of Vocational Education as authorized by the State Board. *(Department of Workforce Development;*

5,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 852; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-3) to the Department of Workforce Development (646 IAC 4-5-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-5-4 Availability of funds; obligation basis of accounting

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 4. Allotment Availability. The Federal fiscal year is October 1 to September 30. The State fiscal year is July 1 to June 30. The local education agency and postsecondary institution fiscal year is January 1 to December 31.

(1) Programs and Services. Except as otherwise provided in this section the State Board and the eligible recipients shall operate on an obligation basis of accounting. Expenditures for personal services and travel shall occur as of the time such services or travel are performed; expenditures for rental and utilities shall occur as of the time such facilities are used; and expenditures for contractual services, supplies, equipment and other expenses shall occur as of the date the commitment is made and supported by a contract. Obligations incurred under the obligation basis of accounting shall be liquidated within the Federal fiscal year following the Federal fiscal year incurred.

Procedures for reimbursement of equipment with Federal funds are outlined in Policies and Procedures section of the Five-Year State Plan.

(2) Construction. Funds for construction will be obligated on the basis of administrative approval by the State Board.

Such administrative approval shall be given only after the applicant agency has submitted a proposal in sufficient form and detail to permit the State Board to make a thorough evaluation thereof. Contracts for construction shall be let within a reasonable period and shall be liquidated within the fiscal year following the fiscal year in which construction is completed. Reasonable period as used herein is defined as not more than 270 days; however, the State Board may extend this if extenuating circumstances such as labor problems, failure of approval of tax levy, natural acts of God, or others are existent. The extension must be requested in writing to the State Board from the eligible recipient. The eligible recipient will be notified in writing of action taken by the State Board.

Administrative approval shall not be given for any construction project unless the appropriate State agencies including the State Board approves same, at which time it shall become final.

(Department of Workforce Development; 5,c; filed Dec 20, 1977: Rules and Regs. 1978, p. 852; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-4) to the Department of Workforce Development (646 IAC 4-5-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-5-5 Fiscal records; retention

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 5. Fiscal Records. Fiscal records will be maintained by the State Board to the extent necessary to assure proper fiscal control and fund accounting and to permit an accurate and expeditious audit. These records will be located with and maintained by the State Board and shall be in sufficient detail to provide documentary evidence of expenditure and adequate audit trails to documentary evidence maintained by other State agencies or by eligible recipients.

Retention period of fiscal records shall be: three (3) years after date of submission of annual or final expenditure report or after final disposition of nonexpendable personal property. The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been received and cleared. *(Department of Workforce Development; 5,d; filed Dec 20, 1977: Rules and Regs. 1978, p. 852; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-5) to the Department of Workforce Development (646 IAC 4-5-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 4-5-6 Audits; availability of reports

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 6. Audits. (1) Audit of State Accounts. The State Board of Accounts will audit fiscal records of the State Board and of other State grantee agencies. These audits will be in conformance with generally accepted audit practices and standards. The audits will be made on schedule determined by the State Board of Accounts and shall cover a continuum. The reports thereof will be available in the offices of the State Board of Accounts, 912 State Office Building, Indianapolis, Indiana 46204 and in the offices of the State Board or other State agencies being audited.

(2) Audits of Local Accounts. The State Board of Accounts will audit fiscal records of the local education agencies and postsecondary institutions. These audits will be conducted in conformance with generally accepted audit practices and standards. The audits will be made on a schedule determined by the State Board of Accounts and shall cover a continuum.

The reports thereof will be available in the office of the State Board of Accounts and in the offices of the appropriate local education agencies and postsecondary institutions.

The State Board may contract for audits of private grantees. (*Department of Workforce Development; 5,e; filed Dec 20, 1977: Rules and Regs. 1978, p. 853; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-6) to the Department of Workforce Development (646 IAC 4-5-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-5-7 Fund matching requirements

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 7. Matching Requirements. (1) At least fifty (50) percent of the cost of carrying out each approved annual program plan for vocational education will be matched with State and local funds.

(2) At least fifty (50) percent of the cost of vocational education in each of the following categories will be matched with State and local funds.

- (a) handicapped,
- (b) disadvantaged, and
- (c) postsecondary and adult.

(3) At least fifty (50) percent of the cost of State administration will be matched with State funds except that: for fiscal year 1978 it shall be twenty (20) percent, and for fiscal year 1979 it shall be forty (40) percent.

(4) No State and local match will be required for the cost of vocational education programs for:

- (a) cooperative vocational education programs for students enrolled from nonprofit private schools pursuant to section 122(f) of the Act,
- (b) exemplary and innovative programs for students enrolled from nonprofit private schools pursuant to section 132(b) of the Act,
- (c) special programs for disadvantaged persons in areas which have high concentration of youth unemployment and school dropouts under section 140 of the Act, excluding State administration and ancillary services, and
- (d) authorization grants received directly from the U. S. Commissioner of Education.

(5) In-kind contributions will not be used for meeting, matching or maintenance of effort requirements. (*Department of Workforce Development; 5,f; filed Dec 20, 1977: Rules and Regs. 1978, p. 853; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-7) to the Department of Workforce Development (646 IAC 4-5-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-5-8 Maintenance of fiscal effort; reduction; effect

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 8. Maintenance of Effort. The State Board will assure that the aggregate expenditures of the State for vocational education for any following fiscal year will not be less than the aggregate expenditures for vocational education for the current fiscal year.

The State Board will assure that local education agencies shall maintain fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

The State Board will assure that postsecondary institutions shall maintain fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

The State Board will verify maintenance of effort by eligible recipients within a five percent tolerance based upon the annual report submitted on funded programs.

Any reduction in fiscal effort for any fiscal year by more than five percent will disqualify the eligible recipient from receiving Federal funds unless the eligible recipient is able to demonstrate to the satisfaction of the State Board the following:

In the preceding fiscal year, the reduction was occasioned by unusual circumstances that could not have been fully anticipated or reasonably compensated for by the eligible recipient. Unusual circumstances may include unforeseen decreases in revenues due to the decline of the tax base;

In the second preceding fiscal year, contributions of large sums of monies from outside sources were made; or

In the second preceding fiscal year, large amounts of funds were expended for long-term purposes such as construction and acquisition of school facilities or the acquisition of capital equipment.

The State Board will not make payment under this State Plan to eligible recipients unless the State Board finds that the combined fiscal effort of the State Board and the eligible recipient on a per student basis or on an aggregate basis of the eligible recipient and the State Board was not less than combined fiscal effort in the second preceding fiscal year. (*Department of Workforce Development; 5,g; filed Dec 20, 1977: Rules and Regs. 1978, p. 854; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-5-8) to the Department of Workforce Development (646 IAC 4-5-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 6. Evaluation

646 IAC 4-6-1 Evaluation policy

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. The State Board will annually evaluate vocational education activities in the State and will report its findings to the Governor, the General Assembly and the U.S. Office of Education. This report will take the form of the Annual Accountability Report required by the Act.

To assist eligible recipients in operating the best possible programs of vocational education, the State Board will, during the five-year period of the State Plan, evaluate the effectiveness of programs of all eligible recipients. (*Department of Workforce Development; 6,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 855; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-6-1) to the Department of Workforce Development (646 IAC 4-6-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-6-2 Evaluation procedure; results

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure. The State Board will use the following procedure to implement the evaluation policy:

(1) The evaluation system will be a positive approach for program improvement and not a punitive system. The evaluation will be conducted by a team made up of members from industry, business, agriculture, labor and vocational education.

(2) Approximately one-fifth of the approved programs will be evaluated in each of the five (5) years.

(3) The State Board will coordinate the evaluation using the procedure as outlined for program evaluation under the State Board's State Approval Agency Agreement with the U.S. Office of Education.

(4) The State Board or its designate will select an evaluation team consultant (team leader) from a list approved by the State Board. Team members will be selected from a source list prepared from input given by eligible recipients, industry, business, agriculture, labor and others.

(5) The on-site evaluation will be totally under the direction of the team leader. The State Board staff will make the proper arrangements for the evaluation team and serve as a resource to the team but will not be a member of the evaluation team.

(6) The evaluation will be made in accordance with the goals established in the local annual application and will also include

a review of planning and operational processes, results of student achievement, results of student employment success, other measures of services to special populations and policies of the State Board.

(7) Staff members from other State agencies will be used as resource persons to the evaluation team as requested by eligible recipients or the team leader. Staff members will serve upon the agreement of the head of that State Agency.

(8) Results of previous evaluations may be used as resource information when deemed necessary by the team leader.

(9) Results of the evaluation will be submitted to the State Board and the eligible recipient in accordance with the procedures outlined in the State Approval Agency Agreement for comment or action.

(10) Final results of the evaluation will be transmitted to the eligible recipient and appropriate State agency for assistance in removing deficiencies or weaknesses identified in the evaluation report and to the State Advisory Council on Vocational Education.

(11) The State Board will be notified by the appropriate State agency when deficiencies or weaknesses have been removed.

(12) The State Board will use the results of the evaluation to make necessary revisions to the programs conducted under the approved State Plan and for future planning purposes.

(Department of Workforce Development; 6,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 855; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-6-2) to the Department of Workforce Development (646 IAC 4-6-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 7. Accreditation

646 IAC 4-7-1 Accreditation

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Accreditation. Subject to Federal recognition the State Board will serve as the State approval agency for a public postsecondary institution or a program of vocational education which desires eligibility for receipt of Federal funds and is not otherwise accredited by a Federally recognized authority. *(Department of Workforce Development; 7; filed Dec 20, 1977: Rules and Regs. 1978, p. 856; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-7-1) to the Department of Workforce Development (646 IAC 4-7-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 8. Rules

646 IAC 4-8-1 Rule-making policy

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. The State Board will develop needed rules and regulations to implement the State Plan and to carry out the responsibilities assigned by State law and the Act. *(Department of Workforce Development; 8,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 856; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-8-1) to the Department of Workforce Development (646 IAC 4-8-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 4-8-2 Rule-making procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure. The procedure for rules and regulations making may be found in the State Plan for Vocational Education. *(Department of Workforce Development; 8,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 856; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-8-2) to the Department of Workforce Development (646 IAC 4-8-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 9. Committees

646 IAC 4-9-1 Appointment of advisory committees

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. The State Board will appoint such advisory committees as it deems necessary to perform the duties imposed by State law and the Act.

The State Board will appoint advisory committees including but not limited to personnel training, research, administration, industrial arts education and special needs programs.

The State Board will convene the State Occupational Information Coordinating Committee (hereafter referred to as SOICC) mandated in the Act. The Committee will function under the guidelines of the National Occupational Information Coordinating Committee (hereafter referred to as NOICC). The State Board will serve as the fiscal agent for the Committee and will supply necessary staff assistance in cooperation with the other State agencies designated as participants on the Committee. (*Department of Workforce Development; 9,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 856; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-9-1) to the Department of Workforce Development (646 IAC 4-9-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-9-2 Advisory committees; members; powers and duties

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure. (1) Personnel Training Advisory Committee–Membership will be representative of both user and provider groups, and persons will be chosen to insure that the public sector, vocational teacher educators and all levels of vocational programs and administration are included on the Committee.

The State Personnel Training Advisory Committee using input from State and university staff, employers, vocational teachers, administrators, support personnel and others, as appropriate, shall assess the need for personnel training services. Priorities for personnel training activities will be recommended to the State Board staff for submission to the State Board.

The Personnel Training Advisory Committee may review proposals, programs, procedures, activities and evaluations related to personnel training services and make recommendations for the purpose of attaining a coordinated system designed to meet the personnel training needs in an efficient and effective manner.

(2) State Occupational Information Coordinating Committee (SOICC)–The Committee membership will be composed of representatives of the following agencies as designated by that agency: State Board, Indiana Employment Security Division, Indiana Manpower Development Council, and Indiana Rehabilitation Services Board. The Committee may ask other agencies to designate a representative to participate as ex officio, non-voting members.

The Committee shall, with funds available from the NOICC, implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs assisted by the State Board under the Act and the Indiana Manpower Development Council under CETA.

(3) Other Advisory Committees–Other committees will be assigned to work with a designated staff member and will report recommendations to the State Board through the Executive Officer/State Director of Vocational Education. (*Department of Workforce Development; 9,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 856; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203*) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-9-2) to the Department of Workforce Development (646 IAC 4-9-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 10. Contracts

646 IAC 4-10-1 State board contracts; eligible recipient contracts

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy. (1) State Board Contracts—The State Board may contract for such services as it deems necessary to exercise the powers and duties authorized in Public Law 227 [IC 20-1-18.3] and the Act.

(2) Eligible Recipient Contracts

(a) Eligible recipients may enter into a contract to provide vocational education from Federal funds with other agencies, business, industry, proprietary and nonprofit private schools, institutions, colleges and universities.

(b) The State Board may approve a contract made by an eligible recipient when the State Board is assured that the:

(i) contract is in accordance with State or local laws;

(ii) instruction to be provided under contract will be conducted as a part of the vocational education program of the State and will meet the same standards, and

(iii) contract will constitute a responsible and prudent use of funds available under the State Plan.

(c) Contracts will contain the following information:

(i) a rationale for conducting the program,

(ii) the basic goals and education objectives of the training program,

(iii) the qualifications and background of administrative and instructional personnel,

(iv) the location and facilities to be used,

(v) the process for selecting and enrolling students,

(vi) the length of training program showing hours per day, weeks per year and total teacher-student contact hours,

(vii) maximum number of students to be enrolled in the class,

(viii) the cost per hour of student-teacher contact and student-administrator hour,

(ix) the procedure to be used for job placement, and

(x) any other pertinent data requested by the State Board.

(d) All contracts will be reviewed annually by the State Board.

(Department of Workforce Development; 10,a; filed Dec 20, 1977; Rules and Regs. 1978, p. 857; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-10-1) to the Department of Workforce Development (646 IAC 4-10-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-10-2 Contract procedure

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Procedure. (1) The State Board will use a request for proposal process when contracting for services.

(2) The State Board determines final action on all contracts. *(Department of Workforce Development; 10,b; filed Dec 20, 1977; Rules and Regs. 1978, p. 858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-10-2) to the Department of Workforce Development (646 IAC 4-10-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

Rule 11. Assurances of Equal Access

646 IAC 4-11-1 Equal access and employment policy

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 1. Policy and Procedures. The State Board has established the following policy assuring equal access and equal employment opportunities for employees, programs and services of the State Board.

The State Board declares and reaffirms a policy of equal employment opportunity and of non-discrimination in the provision of all services to the public.

(1) Equal Employment Opportunity. The State Board will make all decisions regarding recruitment, hiring, promotions and other terms and conditions of employment without discrimination on the grounds of race, color, creed, religion, sex, national origin, age, physical or mental handicap as a basis for an employment decision.

(2) Affirmative Action in Employment. The State Board undertakes a program of affirmative action, to which good faith

efforts will be directed to:

- (a) determine whether minorities and women are underutilized in major categories;
- (b) identify and eliminate the specific cause of underutilization;
- (c) identify and eliminate all employment practices which have an adverse impact on minorities, women and others protected by applicable law, and the relationship of which job performance has not been clearly established;
- (d) establish affirmative action practices based on merit and valid job qualification;
- (e) develop substantial applicant pools of validly qualified minorities and women, special recruitment efforts and other measures to ensure that sufficient numbers of these groups are included to help reduce their underutilization;
- (f) project goals and timetables to include estimates of the representation of minorities and women likely to result from the cooperation of the affirmative action plan; and
- (g) establish organizational structures and monitoring systems which will assure effective operation of the affirmative action program, achievement of its goals and means for modification of the plan as needed.

(3) Non-Discrimination in Public Services. The State Board reaffirms its policy of non-discrimination, on the basis of minority status, sex or other impermissible grounds in the provision of all services provided to members of the public by all education agencies and institutions having programs and projects approved and funded by the State Board.

The State Board commits itself to a continuing program to assure that unlawful discrimination does not occur in the services it renders to the public and that those sectors of the public most affected by this policy be kept informed of its content.

The State Board commits itself to a continuing program to assure that unlawful discrimination does not occur in the enrollments of programs and projects approved and funded by the State Board and that those sectors of the public most affected by this policy be kept informed of its content.

(Department of Workforce Development; 11,a; filed Dec 20, 1977: Rules and Regs. 1978, p. 858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-11-1) to the Department of Workforce Development (646 IAC 4-11-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 4-11-2 Incentives to promote equal employment and access policy

Authority: IC 22-4.1-2-3

Affected: IC 22-4.1

Sec. 2. Incentives. The State Board will fund only programs or activities which are in compliance with the above policy.

If discriminatory practices are identified, the eligible recipient will be properly notified by the State Board and given a reasonable period of time to establish non-discrimination practices. *(Department of Workforce Development; 11,b; filed Dec 20, 1977: Rules and Regs. 1978, p. 859; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203) NOTE: Transferred from the Indiana Commission on Vocational and Technical Education (572 IAC 1-11-2) to the Department of Workforce Development (646 IAC 4-11-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

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